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BUDGETAL YEARS 1984-1986

State Plan

**UNDER PART B OF THE EDUCATION OF
THE HANDICAPPED ACT AS AMENDED**

BY

P.L. 94-142

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STATE PLAN

Under Part B of The Education of the Handicapped Act
as Amended by P.L. 94-142 :

State of Montana

Office of Public Instruction
Ed Argenbright, Superintendent
State Capitol
Helena, Montana 59620

MARCH 1983



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and Certifications

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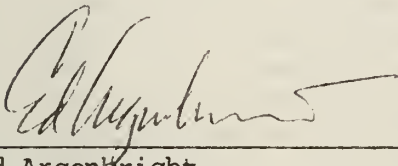
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Part I - Submission Statements
and Certifications

A. SUBMISSION STATEMENT

I, the undersigned authorized official of the State Education Agency of Montana hereby submit the following State Plan for Fiscal Years 1984-1986 under Part B of the Education of the Handicapped Act, as amended by Public Law 94-142.



Ed Argenbright
Superintendent

Jan. 25, 1983

Date

B. ASSURANCE STATEMENTS

The State of Montana makes the following assurances and provisions as required by Part B of the Education of the Handicapped Act, as amended (20 U.S.C. 1411-1420):

- I. In carrying out the requirements of 20 U.S.C. 1412, procedures are established for consultation with individuals involved in or concerned with the education of handicapped children, including handicapped individuals and parents or guardians of handicapped children (20 U.S.C. 1412(7)(A)).
- II. Programs and procedures will be established to assure that funds received by the State or any of its political subdivisions under any other Federal program, including sections 146 and 147 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2771-2772) and section 122 of the Vocational Education Act of 1963 (20 U.S.C. 1232), under which there is specific authority for the provision of assistance for the education of handicapped children, will be utilized by the State, or any of its political subdivisions, only in a manner consistent with the goal of providing a free appropriate public education for all handicapped children, except that nothing in this clause shall be construed to limit the specific requirements of the laws governing such Federal programs (20 U.S.C. 1413(a)(2)).
- III. Federal funds made available under the Act (A) will not be commingled with State funds, and (B) will be so used as to supplement and increase the level of State and local funds expended for the education of handicapped children and in no case to supplant such State and local funds, except that, where the State provides clear and convincing evidence that all handicapped children have available to them a free appropriate public education, the Secretary may waive in part the requirement of this clause if he concurs with the evidence provided by the State (20 U.S.C. 1413(a)(9)).
- IV. The State has an advisory panel, appointed by the Governor or any other official authorized under State law to make such appointments, composed of individuals involved in or concerned with the education of handicapped children, including handicapped individuals, teachers, parents or guardians of handicapped children, State and local education officials, and administrators of programs for handicapped children, which (A) advises the State educational agency of unmet needs within the State in the education of handicapped children, (B) comments publicly on any rules or regulations proposed for issuance by the State regarding the education of handicapped children and the procedures for distribution of funds under the Act and (C) assists the State in developing and reporting such data and evaluations as may assist the Secretary in the performance of his responsibilities under 20 U.S.C. 1418 (20 U.S.C. 1413(a)(12)).

C. GENERAL STATE APPLICATION - EDGAR ASSURANCE

The State educational agency has submitted to the Secretary a certified general application containing the assurances set out in 34 CFR 76.101 and this application is consistent with current Federal and State law.

 X YES

 NO

D. CERTIFICATIONS REQUIRED BY EDGAR

In accordance with 34 CFR 76.104, the State educational agency assures:

- I. That the plan is submitted by the State agency that is eligible to submit the plan.
- II. That the State agency has authority under State law to perform the functions of the State under the program.
- III. That the State legally may carry out each provision of the plan.
- IV. That all provisions of the plan are consistent with State law.
- V. That a State officer, specified by title in the certification, has authority under State law to receive, hold and disburse Federal funds made available under the plan.
- VI. That the State officer who submits this plan, specified by title in the certification, has authority to submit the plan.
- VII. That the agency that submits the plan has adopted or otherwise formally approved the plan.
- VIII. That the plan is the basis for State operation and administration of the program.

E. GOVERNOR'S OPPORTUNITY TO COMMENT

This State has given the Governor at least 45 days to comment on this plan before submitting the plan to the United States Secretary of Education (34 CFR 76.105).

_____ The Governor's comments are attached to this plan.

 X The Governor did not comment on this plan.
(See attached letter of explanation.)

State of Montana
Office of the Governor
Helena 59620



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SUPERINTENDENT
OF PUBLIC INSTRUCTION

February 6, 1981

Mr. Ed Argenbright
Superintendent of Public
Instruction
State Capitol
Helena, Montana 59601

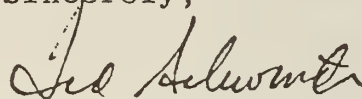
Dear Superintendent Argenbright:

This letter concerns OMB Circular A-95 which provides that my office is to review and comment on state plans or applications that agencies of the state are planning to submit to federal agencies.

Since you are a constitutional, elected official of the state and since you have statutory authority to request and expend federal monies for public schools, it is my view that the clearinghouse requirement under Circular A-95 does not apply to your office. So that there may be no confusion on this point, this letter is provided to you to assure federal officials that I will not offer any comments concerning any plans or applications submitted by you for federal funds. I understand, however, that you will send to my office for information purposes only, a copy of all such plans or applications.

I trust that this letter will serve you with respect to Circular A-95. If you have any problems concerning this matter, please let me know.

Sincerely,


TED SCHWINDEN
Governor

CIVIL RIGHTS CERTIFICATE

ASSURANCE OF COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, SECTION 504 OF THE REHABILITATION ACT OF 1973, TITLE IX OF THE EDUCATION AMENDMENTS OF 1972, AND THE AGE DISCRIMINATION ACT OF 1975

The applicant provides this assurance in consideration of and for the purpose of obtaining Federal grants, loans, contracts (except contracts of insurance or guaranty), property, discounts, or other Federal financial assistance to education programs or activities from the Department of Education.

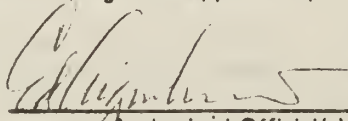
The applicant assures that it will comply with:

1. Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d *et seq.*, which prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving Federal financial assistance.
2. Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, which prohibits discrimination on the basis of handicap in programs and activities receiving Federal financial assistance.
3. Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681 *et seq.*, which prohibits discrimination on the basis of sex in education programs and activities receiving Federal financial assistance.
4. The Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 *et seq.*, which prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance.
5. All regulations, guidelines, and standards lawfully adopted under the above statutes by the United States Department of Education.

The applicant agrees that compliance with this Assurance constitutes a condition of continued receipt of Federal financial assistance, and that it is binding upon the applicant, its successors, transferees, and assignees for the period during which such assistance is provided. The applicant further assures that all contractors, subcontractors, subgrantees or others with whom it arranges to provide services or benefits to its students or employees in connection with its education programs or activities are not discriminating in violation of the above statutes, regulations, guidelines, and standards against those students or employees. In the event of failure to comply the applicant understands that assistance can be terminated and the applicant denied the right to receive further assistance. The applicant also understands that the Department of Education may at its discretion seek a court order requiring compliance with the terms of the Assurance or seek other appropriate judicial relief.

The person or persons whose signature(s) appear(s) below is/are authorized to sign this application, and to commit the applicant to the above provisions.

Jan 25, 1983
Date


Authorized Official(s)

Ed Argenbright
State Superintendent
Name of Applicant or Recipient
Office of Public Instruction
State Capitol
Street

Helena, Montana 59620
City, State, Zip Code

G. OMITTED

H. PUBLIC PARTICIPATION

Copies of the Montana State Plan for Fiscal Years 1984-1986 were made available to the public through the Montana State Library System, the University of Montana Library System, County Superintendents of Schools, Special Education Directors and to individuals upon request. The Plan was circulated throughout the State on February 4, 1983 which provided more than a 60-day period prior to the submission date of April 15, 1983. Following a 30-day review period, public hearings were conducted on March 16, 1983 in Billings, Kalispell and Helena. A summary of public comments and responses are included in this section.

Following is a description of the news release and a listing of the hearing locations:

TO: All News Media

FROM: Ed Argenbright, Superintendent of Public Instruction

FOR RELEASE: Immediately

DATE: February 4, 1983

TEXT: Public hearings on the State Plan for the education of handicapped students in Montana for Fiscal Years 1984-86 will be conducted in Billings, Kalispell and Helena on March 16, 1983. The hearings will begin at 1:00 p.m. in the following locations:

<u>Billings</u>	Yellowstone County Library 510 North Broadway
<u>Kalispell</u>	Courthouse East Conference Room No. 2 723 5th Avenue East
<u>Helena</u>	Lewis and Clark Library 120 South Last Chance Mall

The State Plan includes guidelines and procedures and the proposed use of federal funds for handicapped school-age students in Montana. The public is encouraged to participate in the hearings and to offer comments or suggestions. Copies of the Plan are available from Special Education Directors, State Library, University System Libraries, County Superintendents of Schools and on request from the Department of Special Services, Office of Public Instruction, State Capitol, Helena, Montana 59620.

Written comments or suggestions should be directed to Ed Argenbright, Superintendent of Public Instruction, no later than March 16, 1983.

Part II - Substantive RequirementsOverview

<u>Item</u>	(Column A) Changed from <u>FY 81-83 Plan</u>	(Column B) Pages in FY <u>84-86 Plan</u>
I. Right to Education Policy Statement (20 U.S.C. 1412(1) and 1912(2)(B); 34 CFR 300.121-122)	_____	_____
II. Full Educational Opportunities Goal (20 U.S.C. 1412(2)(A); 34 CFR 300.123- 126) (See Footnote #1.)	_____	_____
III. (See Footnote #2.)		
IV. Child Identification (20 U.S.C. 1412 (2)(C); 34 CFR 300.128)	_____	_____
V. Individualized Education Program (20 U.S.C. 1412(4); 34 CFR 300.130)	_____	_____
VI. Procedural Safeguards (20 U.S.C. 1412 (5)(A); 34 CFR 300.131)	_____	_____

1 - Full Educational Opportunity Goal. Data requirements for 34 CFR 300.124-300.126 are met through the submission of the Annual Data Report (ED 869).

2 - Policy of Priorities (20 U.S.C. 1412(3)(C); 34 CFR 300.127). The requirement that States establish priorities has been superseded by the requirement that, as of September 1, 1980, all handicapped children in a State have available to them a free appropriate public education. Therefore, this plan requirement no longer applies.

	(Column A)	(Column B)
VII. Least Restrictive Environment (20 U.S.C. 1412(5) (B); 34 CFR 300.132) (See Footnote #3.)	_____	_____
VIII. Protection in Evaluation Procedures (20 U.S.C. 1412(5) (C); 34 CFR 300.133)	_____	_____
IX. Comprehensive System of Personnel Development (20 U.S.C. 1413(a) (3); 34 CFR 300.139) (See Footnote #4.)	_____	_____
X. Participation of Private School Children (20 U.S.C. 1413(a) (4) (A); 34 CFR 300.140; 34 CFR 76.651-76.663)	_____	_____
XI. Placement in Private Schools (20 U.S.C. 1413(a) (4) (B); 34 CFR 300.140)	_____	_____
XII. Recovery of Funds for Misclassified Children (20 U.S.C. 1413(a) (5); 34 CFR 300.141)	_____	_____
XIII. Notice and Opportunity for Hearing on LEA Application (20 U.S.C. 1413(a) (8); 34 CFR 300.144)	_____	_____
XIV. Annual Evaluation (20 U.S.C. 1413(a) (11); 34 CFR 300.146)	_____	_____
XV. Additional Requirements		
A. Responsibility of SEA for all Education Programs (20 U.S.C. 1412(6); 34 CFR 300.134)	_____	_____
B. SEA Monitoring Procedures (34 CFR 76.101(e) (3); 34 CFR 300.128(a) (5), 300.130(b) (2), 300.402(a), 300.556)	_____	_____

3 - Least Restrictive Environment. Data requirements for 34 CFR 300.132 are met through the submission of the Annual Data Report (ED 869).

4 - Comprehensive System of Personnel Development. It is not necessary to include in the State plan tabular data on personnel employed and personnel needed. These data are now submitted in the Annual Data Report (ED 869).

(Column A) (Column B)

C. Policies and Procedures for Use of
Part B Funds (20 U.S.C. 1413(a)(1);
34 CFR 300.148)

D. Direct Services by the SEA (20
U.S.C. 1413(b); 34 CFR 300.151)

E. Implementation Procedures - SEA
(20 U.S.C. 1412(6); 34 CFR
300.136)

XVI. Confidentiality (20 U.S.C.
1412(2)(D); 34 CFR 300.129)

A. POLICIES, PROCEDURES AND DESCRIPTIONS

I. RIGHT TO EDUCATION POLICY STATEMENT

A. Constitution of the State of Montana (Article X)

Section 1. Educational goals and duties. (1) It is the goal of the people to establish a system of education which will develop the full educational potential of each person. Equality of educational opportunity is guaranteed to each person of the state.

(2) The state recognizes the distinct and unique cultural heritage of the American Indians and is committed in its educational goals to the preservation of their cultural integrity.

(3) The legislature shall provide a basic system of free quality public elementary and secondary schools. The legislature may provide such other educational institutions, public libraries and educational programs as it deems desirable. It shall fund and distribute in an equitable manner to the school districts the state's share of the cost of the basic elementary and secondary school system.

B. School Laws of Montana, 1981 (Title 20, Chapter 7)

20-5-101. Admittance of Child to School

(1) The trustees shall assign and admit any child to a school in the district when the child is:

(a) 6 years of age or older on or before September 10 of the year in which the child is to enroll but has not yet reached his 19th birthday;

(b) a resident of the district; and

(c) otherwise qualified under the provisions of this title to be admitted to such school.

(2) The trustees of any district shall have the authority to assign and admit any nonresident child to a school in the district under the tuition provisions of this title.

(3) The trustees may at their discretion assign and admit a child to a school in the district who is under 6 years of age or an adult who is 19 years of age or older if there are exceptional circumstances that merit waiving the age provision of this section.

20-5-102. Compulsory Enrollment and Excuses

(1) Except as provided in subsection (2), any parent, guardian or other person who is responsible for the care of any child who is 7 years of age or older prior to the first day of school in any school fiscal year shall cause the child to be instructed in the program prescribed by the Board of Public Education pursuant to 20-7-111 until the later of the following dates:

(a) the child's 16th birthday;

(b) the date of completion of the work of the 8th grade.

(2) Such parent, guardian or other person shall enroll the child in the school assigned by the trustees of the district within the first week of the school term or when he establishes residence in the district unless the child is:

(a) enrolled in a private institution which provides instruction in the program prescribed by the Board of Public Education pursuant to 20-7-111;

(b) enrolled in a school of another district or state under any of the tuition provisions of this title;

(c) provided with supervised correspondence study or supervised home study under the transportation provisions of this title;

(d) excused from enrollment in a school of the district when it is shown that his bodily or mental condition does not permit his attendance and the child cannot be instructed under the special education provisions of this title;

(e) excused from compulsory school attendance upon a determination by a district judge that such attendance is not in the best interest of the child; or

(f) excused by the board of trustees upon a determination that such attendance by a child who has attained the age of 16 is not in the best interest of the child and the school.

(3) The excuse provided for in subsection (2)(d) of this section shall be issued by the district superintendent or the county superintendent when there is no district superintendent employed by the district. Whenever an excuse is denied by the applicable official, an appeal of such decision may be made to the district court of the county within 10 days after the decision upon giving a bond in the amount set by the court to pay all costs of the appeal. The decision of the district court shall be final.

20-5-103. Compulsory Attendance and Excuses

(1) Except as provided in subsection (2), any parent, guardian or other person who is responsible for the care of any child who is 7 years of age or older prior to the first day of school in any school fiscal year shall cause the child to attend the school in which he is enrolled for the school term and each school day therein prescribed by the trustees of the district until the later of the following dates:

(a) the child's 16 birthday;

(b) the date of completion of the work of the 8th grade.

(2) The provisions of subsection (1) do not apply in the following cases:

(a) The child has been excused under one of the conditions specified in 20-5-102.

(b) The child is absent because of illness, bereavement, or other reason prescribed by the policies of the trustees.

(c) The child has been suspended or expelled under the provisions of 20-5-202.

20-7-411. Regular Classes Preferred -- Obligation to Establish Special Education Program

(1) All handicapped children in Montana are entitled to a free appropriate public education provided in the least restrictive alternative setting. To the maximum extent appropriate, handicapped children, including children in public or private institutions or other care facilities, shall be educated with children who are not handicapped. Separate schooling or other removal of handicapped children from the regular educational environment may occur only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

(2) After September 1, 1977, the board of trustees of every school district must provide or establish and maintain a special education program for every handicapped person as herein defined between the ages of 6 and 18, inclusive.

(3) The board of trustees of any school district may meet its obligation to serve handicapped persons by establishing its own special education program, by establishing a cooperative special education program or by participating in a regional services program.

20-7-401(4). Handicapped Child

"Handicapped child" means a child evaluated as being mentally retarded, hard-of-hearing, deaf, speech impaired, visually handicapped, emotionally disturbed, orthopedically impaired, other health impaired, or as having specific learning disabilities, who, because of those impairments, needs special education and related services.

20-7-402. Special Education to Comply with Board Policies

(1) The conduct of special education programs will comply with the policies recommended by the Superintendent of Public Instruction and adopted by the Board of Public Education. These policies shall assure and include but are not limited to:

(a) placement of handicapped children in the least restrictive alternative setting;

(b) due process for all handicapped children;

(c) use of child study teams to identify handicapped children and use of instructional teams to plan individual education programs;

(d) comprehensive evaluation for each handicapped child; and

(e) other policies needed to assure a free and appropriate public education.

(2) The Superintendent of Public Instruction shall promulgate rules to administer the policies of the Board of Public Education.

C. Administrative Rules of Montana

10.60.101. Board of Public Education Policy Statement

It shall be the policy of the Board of Public Education to foster the development and continuation of appropriate special education services for all identified handicapped children with the opportunity to become confident, dignified and self-sufficient members of society to the greatest extent possible.

10.16.212. Deaf-Blind

"Deaf-Blind" means concomitant hearing and visual impairments, the combination of which causes such severe educational problems for the children so impaired that they cannot be accommodated in special education programs designed solely for deaf or blind children.

10.16.213. Multihandicapped

"Multihandicapped" means concomitant impairments (such as mentally retarded-blind, mentally retarded-orthopedically impaired, etc.), the combination of which causes such severe educational problems that the children so impaired cannot be accommodated in special educational programs designed solely for one of the impairments. The term does not include deaf-blind children.

D. State Interagency Agreement

The Interagency Committee for Handicapped Children (IC) has been charged with the task of organizing an effort to improve the state's coordination and delivery of services to handicapped children. To accomplish this task, the IC is to link policies, procedures and funding practices of the various agencies of the state which are mandated under various federal and state requirements to provide these services to handicapped children. It is the responsibility of state agencies, via the IC, to integrate these services to effect savings, to more effectively provide these services and to identify and to resolve the problems of a service delivery network in the state of Montana. Actions by the IC are to develop methods and procedures for coordinated efforts with the final policy decisions to be carried out by the individual agencies.

The charge for this task originally came from House Joint Resolution No. 72 in the 1977 legislative sessions. Carrying out the intent of HJR No. 72, the Directors of the Departments of Social and Rehabilitation Services, Health and Environmental Sciences, Institutions, Justice and the Office of the Governor and the Office of the Superintendent of Public Instruction have designated representatives from their respective departments and offices as official members of the IC.

To accomplish this task, the IC shall:

- A. Promote, coordinate and oversee long-range planning for the development of services to handicapped children in Montana to be used by both public and private agencies.
- B. Recommend to the Governor's Office, the executive departments and other agencies policies and procedures for legislative or executive action to more effectively provide services to handicapped children.
- C. Identify duplication of services, need for services and conflicting services to handicapped children. Upon request, to recommend support or non-support of services through existing review procedures and mechanisms.
- D. Act as a forum upon request when two or more agencies, policies, programs or service systems have conflicting requirements, services and/or other problems that require an interagency solution and agreement to more effectively provide services to handicapped children.
- E. Serve as an advisory body to projects and programs that have as a primary goal the coordination and integration of services to handicapped children.
- F. Develop interagency agreements to promote service delivery to handicapped children.
- G. Designate sub-committees, task forces and other permanent or ad hoc groups, as appropriate, for special studies, problem solving, analysis, regulation change, special interests or review. Such groups and committees shall report directly to the IC on a regular basis as determined by the IC.
- H. Organize and maintain regular communication and linkages with other groups and organizations that have services to handicapped children as a primary goal.
- I. Hold hearings and solicit information and opinions from concerned agencies and groups or individuals on proposed policies and recommendations for the delivery of services to handicapped children.

II. FULL EDUCATIONAL OPPORTUNITIES GOAL

A. School Laws of Montana, 1981 (Title 20, Chapter 7)

20-7-411. Regular Classes Preferred -- Obligation to Establish Special Education Program

(See Section I. Part B for complete citation.)

20-7-412. Establishment of Individual District Special Education Program

(1) The trustees of any district, upon obtaining the approval of the Superintendent of Public Instruction, shall establish and maintain a special education program whenever, in the judgment of the trustees and the Superintendent of Public Instruction:

(a) there are sufficient numbers of handicapped children in the district to justify the establishment of a program; or

(b) an individual child requires special education services such as home or hospital tutoring, school-to-home telephone communication or other individual programs.

(2) Programs may be established for handicapped persons between the ages of 0 and 21 when the Superintendent of Public Instruction and the trustees have determined that such programs will:

(a) assist a person to achieve levels of competence that will enable him to participate in the regular instruction of the district when he could not participate without special education;

(b) permit the conservation or early acquisition of skills which will provide the person with an equal opportunity to participate in the regular instruction of the district; or

(c) provide other demonstrated educational advantages which will materially benefit the person.

(3) Approval and operation of programs established pursuant to subsection (2) do not obligate the state or a school district to offer regular educational programs to a similar age group unless specifically provided by law.

(4) When an agency which has responsibility for a handicapped person over 21 but not more than 25, inclusive, cannot provide appropriate services to that person, the agency may contract with the local school district to provide such services.

III. POLICY ON PRIORITIES

The requirement that states establish priorities has been superseded by the requirement that, as of September 1, 1980, all handicapped children in a state have available to them a free appropriate public education.

IV. CHILD IDENTIFICATION

A. Policies and Procedures

1. School Laws of Montana, 1981 (Title 20, Chapter 7)

20-7-414. Determination of Children in Need and Type of Special Education Needed -- Approval of Classes and Programs by Superintendent

(1) The determination of the children requiring special education and the type of special education needed by these children shall be the responsibility of the trustees, and such determination shall be made in compliance with the procedures established in the rules of the Superintendent of Public Instruction.

(2) Whenever the trustees of any district intend to establish a special education class or program, they shall apply for approval and funding of the class or program by the Superintendent of Public Instruction. The

Superintendent of Public Instruction shall approve or disapprove the application for the special education class or program on the basis of its compliance with the laws of the state of Montana, the special education policies adopted by the Board of Public Education and the rules of the Superintendent of Public Instruction. No special education class may be operated by the trustees without the approval of the Superintendent of Public Instruction. Each special education class or program must be approved annually to be funded as part of the maximum-budget-without-a-vote for special education.

20-7-404. Cooperation of State Agencies

The state department of health, the department of institutions, the department of social and rehabilitation services and the state school for the deaf and blind shall cooperate with the Superintendent of Public Instruction in assisting school districts in discovering children in need of special education. Nothing herein shall be construed to interfere with the purpose and function of these state agencies.

2. Administrative Rules of Montana

10.16.1201. Screening and Referral Process and Child Find

(1) Each school district must screen and develop criteria for further assessment for its students annually to determine potential candidates for special education and report the screening process to the Superintendent of Public Instruction.

(2) Each school district is responsible for developing a referral process for children and youth who have been, or are being, considered for retention, delayed admittance or considered as a possible referral to a child study team.

(3) Each school is responsible for establishing a child find process.

10.16.901. Parental Notification of District Identification, Location, Referral and Screening Procedures

(1) "Parent" includes a parent, a guardian, a surrogate parent or a person acting as a parent of a child in the absence of a parent or guardian. The term "parent" is defined to include persons acting in the place of a parent, such as a grandmother or stepparent with whom a child lives, as well as persons who are legally responsible for a child's welfare.

(3) Individual members of each child study team are charged with the responsibility of conducting their part of the evaluation as appropriate to their professional skills and training and to summarize in writing their evaluation results, identify the instruments or methods used to gain the data and make recommendations to providing services to the child. They are responsible for using non-discriminatory testing and evaluation procedures as outlined in Rule 10.16.1101 of the state reference manual. The summary of the evaluation and recommendations are to be filed in the student's educational records, interpreted to parents and made available to the chairperson of the child study team for educational planning.

(4) Once a decision is made by the child study team that a child is handicapped and is not receiving an appropriate education in the present educational program, the district has 30 days in which to initiate the appropriate changes in the child's program.

10.16.1203. Evaluation by the Child Study Team

No child shall receive special education services until a child study team has performed an appropriate comprehensive assessment which yields evidence that the child has learning and/or behavioral problems requiring a specialized service not afforded by the regular program.

(1) Areas of assessment shall include, when appropriate, but not limited to, the following categories:

(a) scholastic - this area shall include assessment of the intellectual, language and communication, academic and self-help skill status of the child;

(b) physical - this area shall include a review of general health status of the child, with particular attention to the visual, auditory, musculo-skeletal, neurological and developmental modalities; and

(c) adjustment - this area shall include assessment of the social skills and emotional status of the child.

(2) Assessment results shall be summarized in writing, dated and signed by the individual(s) responsible for conducting the assessments. The report shall be kept with the child's permanent records as required in Standards for Accreditation of Montana Schools.

(3) Summaries shall include procedures and instruments used, results obtained and apparent significance of findings as related to the child's instructional program.

(4) Assessments in each of the areas stated shall take into account, but not be limited to, the age, maturation and cultural background of the child.

(5) Since conditions which cause a child to be handicapped can have the effect of depressing or distorting standardized intelligence and achievement test scores, these scores should not be used as the only criterion in determining a child's need for services.

(6) When a school psychologist and child study team utilize the test results of another agency or person, that school district assumes responsibility for accuracy of the psychological information.

(7) An evaluation of the child, based on procedures which meet the requirements under Rule 10.16.1205, is conducted every three years or more frequently if conditions warrant or if the child's parent or teacher requests an evaluation.

10.16.1204. Composition of a Child Study Team

(1) The board of trustees of the local school district, through its designee, shall appoint the child study team. The child study team shall consist of:

(a) if the school district employs a principal or administrative staff, the school principal, designee or other representative of the school district administration who has authority to provide or supervise the provision of special education services.

(b) the child's regular teacher:

(i) if the child has more than one regular teacher, one of the regular teachers shall be appointed and a written status summary from all of the child's regular teachers shall be made available to the child study team.

(ii) if the child is not enrolled in school, a regular teacher shall be appointed who teaches grades or subjects appropriate for the child's age.

(c) the child's special education teacher when the child is already receiving special education. If the child is not receiving special education, the special education teacher who will be most likely to serve the child in the event the child is placed in the district special education program shall be appointed.

(d) one or both of the child's parents. "Parent" includes any person as defined under 10.16.901(1) ARM. If the parents refuse to participate, the school district shall have a record of its attempts to encourage participation such as:

(i) detailed records of telephone calls made or visits to the parent's home.

(ii) copies of correspondence sent to the parents and any responses received.

(e) the child, where appropriate.

(f) when the child is enrolled in a private school, a representative from the private school.

(i) if the representative cannot attend, the school district shall use other methods to ensure participation by the private school including individual or conference telephone calls.

(ii) if the private school refuses to participate, the school district shall have a record of its attempts to encourage participation such as:

(A) detailed records of telephone calls made or visits to the private school.

(B) copies of correspondence sent to the private school and any responses received.

(g) other individuals as required by 10.16.1205 ARM.

(2) Any child study team member may invite the following people to participate on a consultive basis:

(a) other specialists when such specialists are needed to complete an appropriate evaluation.

(b) individuals who will assist the child study team member.

10.16.1205. Composition of Specific Child Study Teams

(1) In addition to the core team, a school psychologist is a required member of the child study team for a mentally retarded child.

(2) In addition to the core team, a physician's report and pertinent medical information shall be obtained and utilized in the comprehensive evaluation for a child who is orthopedically impaired.

The child study team shall determine the child's educational needs resulting from the orthopedic handicap including the need for changes in the physical environment, physical therapy and occupational therapy. (Physical and occupational therapy are the school's responsibility only if the orthopedic problem interferes with the student's ability to acquire academic and vocational skills.) Generally, orthopedically handicapped children should be accommodated in the regular classroom unless there is a significant orthopedic handicap.

(3) In addition to the core team where a child is visually handicapped, a vision consultant should be utilized by the child study team when indicated by the severity of the handicap. The team shall also utilize a current evaluation from an ophthalmologist or optometrist. District and state services should be coordinated to ensure comprehensive services without unnecessary duplication.

(4) In addition to the core team where a child is hearing impaired, a consultant for the hearing impaired, audiologist and speech pathologist may be needed. The team shall also utilize a physician's report and pertinent medical information. District and state services should be coordinated to ensure comprehensive services without unnecessary duplication.

(5) In addition to the core team, a speech pathologist is a required member of the child study team for a child who is speech/language impaired. The speech pathologist may be the special education person on the core team.

(6) The team shall consist of a core team plus other personnel as determined necessary for the health impaired child. In addition, eligibility for a homebound program must be documented by a physician.

(7) In addition to the core team, a teacher or administrator with training or knowledge in the area of specific learning disabilities, a speech therapist, when the speech therapist considers participation necessary, and other appropriate professional individuals are needed when the child has a specific learning disability or disabilities.

(8) In addition to the core team, a qualified psychologist and/or a (licensed/certified) psychiatrist is needed for the study of the educational needs of the emotionally disturbed child.

10.16.1206. Record of Child Study Team

Each child study team member shall sign the child study report and file it in the child's file. If a team member(s) disagrees with the majority in a placement decision, then a statement is to be prepared, signed, dated and included in the child's folder by the dissenting member(s). The statement is to be viewed as a potentially helpful alternative for the child.

B. Information

The SEA is the agency responsible for coordinating the planning and implementation of the policies and procedures under Regulation 300.128(a).

1. Introduction

Outlined below are roles and responsibilities to be assumed by state agencies serving handicapped children. The purpose in listing these roles and responsibilities is not to alter the services being provided by state agencies but to define what agencies are doing and the relationship between agencies.

In general, the roles and responsibilities described below give the Department of Health and Environmental Sciences (DHES) and the Office of Public Instruction (OPI) a broad responsibility to find and assure that handicapped children are being served. This assignment of broad

responsibility does not mean other agencies are relieved of serving handicapped children but rather that services need to be better coordinated with a clear understanding of who is responsible for seeing that the child's needs are met.

This outline is meant to serve as a broad general policy for the provision of services to handicapped children. It should also serve as a mechanism for mediation when conflicts as to areas of responsibility arise between agencies. The welfare and interest of the children being served should take precedent in any area of these roles and responsibilities.

The concept of a continuum of services is implicit in this assessment of roles. This concept is generally that services begin with finding and evaluating the client, who then is provided services in increasingly intensive and restrictive programs until the client no longer needs services.

2. Definitions

a. The general definitions used for phases in the continuum of services are as follows:

i. Outreach/Referral - This phase includes all those services specifically directed at identifying clients, such as: outreach programs, screening clinics, tracking projects and child find projects. Prime responsibility in this area does not mean that other agencies should not look for handicapped children but, rather, that every child found should be reported to the agency responsible for serving the child.

ii. Evaluation/Diagnosis - This phase includes assessment and comprehensive evaluation of more than one area of the child's functioning to determine whether the child is handicapped and the extent of the child's handicap and the development and adoption of an individual services plan.

Comprehensive evaluation means an evaluation of more than one area of a child's functioning so that no single evaluation shall be the sole criteria for determining appropriate services. Such evaluations shall be compiled from as many of the following areas as deemed necessary for determining the child's performance. This is to include the characteristics of the family, the child's unique needs and the family's adjustment to their child's impairment.

- Medical history and evaluation
- Educational and developmental history
- Personal/Social/Emotional functioning
- Academic functioning
- Vocational/Occupational/Rehabilitation needs
- Communication skills
- Gross motor/Fine motor/Sensory skills
- Adaptive behavior
- Nutritional history

The prime agency for this phase is responsible for seeing that the child is evaluated and that an individual services plan is developed.

iii. Outpatient/Counseling - This phase includes all services in the child's individual services plan that can be provided in a community setting. This phase includes services such as: special education services in the school or at home, out-patient or short-term medical treatment (including mental health care), day care, speech therapy and vocational rehabilitation services.

iv. Alternative Living Arrangements - This phase includes all services to the child that require 24-hour residential or foster care. Examples include: foster care, group homes, boarding schools and residential settings of twelve or fewer clients.

v. Residential Treatment Facilities - This phase includes all services provided in a residential setting of more than twelve clients that is medical, long-term, intensive or secure in nature. Included are those clients placed under the commitment law. Examples include: Boulder River School and Hospital, Yellowstone Boys' and Girls' Ranch, Warm Springs Children's Unit and out-of-state treatment programs.

b. The definitions of general terms as used in the context of this section are as follows:

i. Case Management - The responsibility of an agency to develop, plan and execute with parent/guardian agreement an individual services plan for each child for whom it has this responsibility. Only one agency at a time shall have case management. The individual services plan shall be provided by the case management

agency to all other involved agencies to fulfill the other agencies' legal requirements. Case management should include evaluation of the plan as to the appropriateness of the individual services being provided.

ii. Tracking - The process whereby an agency formulates a listing of children needing or receiving services and the agency providing the service. Periodic updating is done on the listing to ensure current information.

iii. Annual Review - As performed during the process of tracking. Annual review is the confirmation or validation that an active individual services plan exists for each child. This review should not include any judgment as to the quality of the individual services being provided.

iv. Responsible Agency - The agency which has case management responsibility and which implements and executes the individual services plan for each client. This agency has the responsibility to see that the child is receiving all services which are appropriate and necessary.

3. Agency Roles and Responsibilities

a. Department of Health and Environmental Sciences (Health Services Division)

i. DHES shall assist the public schools in seeking out, evaluating and referring handicapped children, age 0 through 5.

ii. DHES shall maintain a record of all handicapped children, age 0 through 5, who are served by state agencies or grantees of state agencies. DHES shall be the prime agency responsible for tracking all handicapped children, age 0 through 5.

iii. DHES shall, at least annually, review all known handicapped children, age 0 through 5, to assure that the child is being served or that the individual services plan has been completed.

iv. DHES shall refer all persons who are primarily developmentally disabled (DD) to SRA for case management.

(a) DHES shall maintain records of DD clients as a part of its record system and carry out the review described in sections (ii) and (iii).

(b) DHES shall provide case management of persons suspected of being developmentally disabled until the person is evaluated. If an evaluation indicates that a person is primarily developmentally disabled, SRS shall then provide case management and develop the individual services plan upon referral from DHES.

v. DHES, with the assistance and cooperation of other state agencies, shall provide district center child study teams for the evaluation of all suspected handicapped children, age 0 through 5.

b. Office of Public Instruction (Special and General Services)

i. OPI shall be the principal agency for seeking out, evaluating and referring handicapped children, age birth through 18.

ii. OPI shall maintain a record of all handicapped children, age 6 through 18, who are served by state agencies or grantees of the state.

(a) Records will be maintained in compliance with P.L. 94-142, sec 121a.450-121a.466.

(b) OPI shall develop reports of children being served as requested by other state agencies serving handicapped persons, when parental agreement is obtained.

iii. OPI, through the local school districts, shall have the responsibility for case management for all handicapped children, birth through 18, except for those children living in alternate living arrangements or residential treatment facilities.

iv. The "Child Study Process" set out by OPI in 10.16.1202-1206 shall serve as the primary procedure for the evaluation, referral and case planning for all state agencies serving handicapped children, birth through 18.

v. OPI shall not have case management responsibility for handicapped children, age 6 through 18, living in alternate living arrangements or residential treatment facilities or for children returning to the community from such facilities for a period of 90 days after leaving the facility.

vi. OPI shall develop agreements with other agencies that set out OPI and local school district obligations to pay educational costs for children placed in alternate living arrangements.

c. Department of Social and Rehabilitation Services (SRS)

i. SRS shall provide case management for any child who is diagnosed as mentally retarded or emotionally disturbed and who is in need of alternative living arrangements or residential treatment facilities and for 90 days after leaving such facilities.

ii. SRS shall retain the ultimate authority for acting in the behalf of all handicapped children of whom SRS has custody.

(a) The agency otherwise responsible for the child shall be responsible for case management. The fact that SRS has custody of the child does not relieve other agencies of responsibilities of serving the child.

(b) When a ward of SRS is within a residential treatment facility, case management is the responsibility of the facility and SRS will act as an interested party much the same as a parent acts. Educational services will be provided in accordance with the special education rules and regulations as adopted by the Superintendent of Public Instruction.

iii. SRS shall be responsible for planning and developing those services for developmentally disabled children that are not provided by other state agencies or mandated to be provided by other agencies, i.e., free and appropriate public education.

iv. SRS shall provide vocational rehabilitation services to eligible handicapped children referred by other agencies.

d. Department of Institutions

i. The Department of Institutions through the community mental health centers shall provide evaluation and treatment services to emotionally disturbed children referred by DHES, SRS or local educational agencies. These services shall be provided without regard to ability to pay.

ii. Eastmont Training Center, Boulder River School and Hospital and Warm Springs State Hospital (State-Operated Programs [SOPs]) shall serve handicapped children whose placement there is determined to be appropriate by consultation between the SOPs and local education agencies and shall provide case management services to children at the SOPs until the child is referred on to a special education program. Each child will be reviewed at least annually by the special education agency to determine that the placement at the SOP is still appropriate.

iii. The Department of Institutions shall provide case management services for all handicapped children while the child is a resident of a state residential treatment facility.

e. Montana School for the Deaf & Blind (MSDB)

MSDB shall serve children referred through local education agencies and shall provide case management for handicapped children until they are returned to special education programs or SRS. Each child's placement will be reviewed at least annually to determine that the placement at the MSDB is still appropriate.

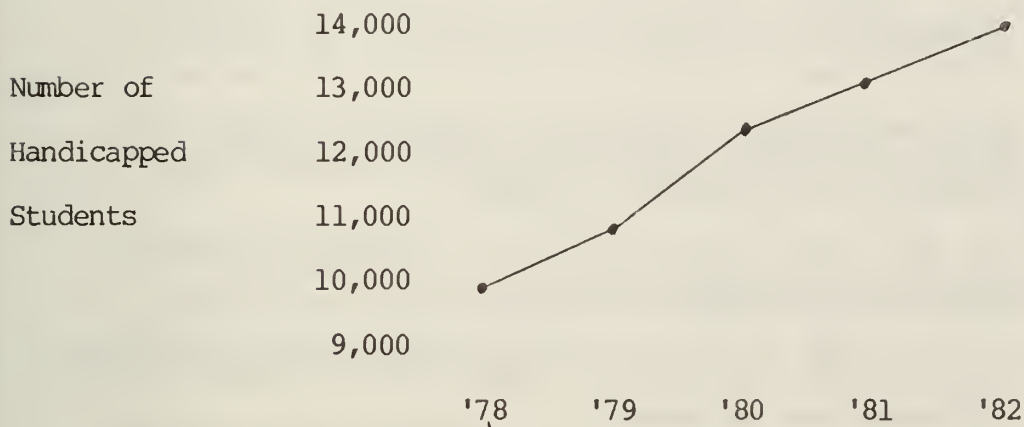
4. Status of Projected Activities for School Year 1982-83

A comprehensive public information and awareness campaign was conducted during the 1982-83 school year. The campaign was produced and developed during the 1978-79 school year with annual revisions and updating. The 1982-83 campaign began in August of 1982 with the dissemination of materials, media distribution and broadcasting and referral and data collection. Several state and public agencies were involved in the campaign including the Department of Institutions, Social and Rehabilitation Services and the Department of Health.

From July 1982 to January 1983, over 1,000 requests for information and/or referrals had been made to the Office of Public Instruction. All referrals are followed up with phone calls and letters. All referrals are then made to the appropriate school district with a follow-up from this office with regard to the status and outcome of the referral.

Based upon the following, the expected outcomes, as outlined on page 15 of the 1981-83 Annual Program Plan, have been completed:

- a. The increase in handicapped students from December 1, 1980 to December 1, 1981 was seven percent. Note the linear increase from 1978 on the graph below.



- b. The number of requests for special education material has increased by almost 100 requests from the 1981-82 school year.

c. Based upon the increased number of students identified as handicapped and upon the increased letters, phone calls, etc, for information regarding training of personnel, as well as parents, we believe there has been a significant increase in public awareness about special education in Montana.

d. Several other state agencies as well as parent and school personnel have expressed interest in the process of special education, funding, accessing services and training.

In addition to the state's effort for child find, local school districts are required to conduct child find efforts annually. From the school year 1980-81, the Office of Public Instruction has placed strict guidelines and requirements on the EHA-Part B flow-through entitlement monies available to districts. Each Part B application must outline in detail the LEAs' efforts for child find for the school year prior to any approval for funding. Therefore, with a foundation in state regulation and the requirements of EHA-Part B applications, assurances have been established that child find is being conducted at the local level.

5. Specific activities for child find at the state level include the following for Fiscal Year 1984-86:

- a. The SEA will continue to provide technical assistance and inservice training to LEAs and other agencies.
- b. The Montana School for the Deaf and Blind will provide statewide audiological screening services for preschool and school-age children.
- c. The SEA will continue to receive and process inquiries concerning child find.
- d. The SEA will continue to contract with public and/or private agencies to produce child find materials and advertising as needed.
- e. The SEA will update the state child find handbook and maintain the state child find campaign.
- f. The SEA will continue to monitor LEAs and other agencies to ensure that proper child find procedures are in place and practiced.

6. The state child find efforts for Fiscal Year 1984-86 will have the following expected outcomes:

- a. Refinement and improvement of the established statewide child find process.
- b. Continued awareness of parents and general public of child find procedures in each community.
- c. Identification of 100 percent of the handicapped children in the state.

7. Methods Used to Determine Which Children Are and Are Not Receiving Special Education and Related Services

December 1 of every year, a statewide count of handicapped students is taken by school districts. The form on the next page indicates that the school district or special education cooperative are required to report students by initial, date of birth and sex. Also required for each student is the identification of their handicap, the number of hours they receive special education and related services per week and the student's district of residence and service.

At the end of May of each school year, a second child count is taken which is cumulative in nature. This child count, reported on a like form, indicates all students served by a district or special education cooperative during the entire school year and includes the total contact hours served during the school year.

During the on-site monitoring process, child count forms are reviewed for completeness and accuracy in reporting.

Upon submission to the state education agency, each child count form is desk audited for completeness and accuracy.

V. INDIVIDUALIZED EDUCATION PROGRAM

A. Policies and Procedures

1. Administrative Rules of Montana

10.16.1207. Development of Individualized Education Program

(1) Services provided directly to a child via special education shall begin only when a comprehensive child study team evaluation has been conducted and when written parental/guardian approval of the written individualized education program has been developed. Written parental consent for special education placement shall also be obtained annually prior to placing the child in the program.

(2) The data gathered from the comprehensive educational evaluation conducted by the child study team shall be utilized in the development of the individualized education program.

(3) The term "individualized education program" means a written statement for each handicapped child developed in a meeting by a representative of the local education agency who shall be qualified to supervise the provision of the specially designed instruction to meet the unique needs of handicapped children, regular and/or special education teacher(s) who have direct responsibility for implementing the child's individualized program, the parents or guardian of the child and, whenever appropriate, the child.

(4) The statement shall include, at least, these items:

(a) a statement of the present levels of educational performance of such child (baseline data);

(b) a statement of annual goals;

(c) short-term instructional objectives (in addition to the basic academic and life skills objectives, psychomotor objectives also must be considered);

(d) a statement of the specific educational services to be provided to such child and the extent to which such child will be able to participate in regular educational programs;

(e) the projected date for initiation and anticipated duration of such services; and

(f) appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether instructional objectives are being achieved.

(5) When individualized education plans are developed for secondary special education students, the following points should carefully be considered:

(a) whether a total basic skills focus is still realistic;

(b) whether the service thrust and focus should be development of compensatory and adjustment skills; and

(c) whether utilization of a vocational program is appropriate.

10.16.1213. Parental Involvement

(1) Parents shall be afforded the opportunity to participate in the child study team process, individual education planning conferences, and periodic educational program reviews. They also shall be afforded the opportunity to assist in scheduling the meetings at a mutually agreed on time and place.

(2) The child study team may evaluate the child providing they have written parental consent. Planning conferences and periodic program reviews may be conducted without the parent in attendance only if there is sufficient documentation of attempts/efforts to arrange a mutually agreed on time and place or, if the parents waive their right to participate, in accordance with due process procedures.

(3) In cases where it is not possible or practical for the parent to attend, other alternatives may be attempted including individual or conference telephone calls.

(4) To assure active parent participation, an interpreter may accompany the parents to allow communication in their native or primary language.

(5) The responsibility for initiating and conducting the individual planning conference rests with the local education agency.

(6) No parent of a child placed in a special education program will be required to perform duties not required of any other parent whose child is enrolled in the public schools unless specifically agreed to by both parties in writing.

10.16.1105. Aversive Treatment Procedures

(1) Individual programs involving the use of aversive stimuli (e.g., restraints, shock, seclusion) shall be conducted only with the written consent of the affected student's parents and at the recommendation of the child study team and shall be described by specific behavioral objectives. Chemical restraint may never be used for punishment, for staff convenience or as a substitute for a program. Each use of physical restraint, aversive techniques, or environmental seclusion shall be recorded in the student's file.

(2) The record shall include:

- (a) description of behavior to be modified;
- (b) evidence that less aversive measures have been tried;
- (c) expected behavioral outcome;
- (d) actual behavioral outcome;
- (e) if relevant, list possible secondary effects;
- (f) date for review or termination; and
- (g) written parental permission.

10.16.1208. Record of Individualized Education Program

Each agency shall maintain records of the individualized education program for each handicapped child, and such program shall be established, reviewed and revised as provided in the special education regulation.

10.16.1209. Periodic Review of Individualized Education Program

(1) Each agency and parents will establish or revise an individualized education program for each handicapped child before the beginning of each school year. They will then review and, if appropriate, revise its provisions

periodically but not less than annually. Parents shall have the opportunity to review their child's individualized education program and be given the opportunity to assist in scheduling the meetings at a mutually agreed time and place.

(2) The notice of the meeting should include the following information:

(a) the date, time and place of review conference;

(b) a core team will participate in the review;

(c) a description of procedures to be used in the review; and

(d) a statement that the parents will receive the findings and recommendation of the staff's review within 10 days after completion of the review.

(3) The conference shall be summarized in writing, dated and signed by persons present. Content of the summary shall follow the outline of the individualized education program. A copy of the summary shall be provided to parents.

10.16.1210. Duration of Placement

(1) A child may not receive service under special education without an annual review which determines the program's appropriateness for the child.

(2) Short-term placement (six weeks maximum) is permissible for diagnostic teaching and/or trial speech therapy. Written parental approval, in addition to an evaluation by the appropriate child study team, is required for short-term placement.

2. Policy Statement

a. This guideline has been developed to ensure that the placement/referral process for handicapped children placed in or referred to private schools/facilities by a state agency or local education agency must: conform with the Montana Laws and Administrative Rules and federal laws and regulations regarding the development of the individualized education program.

b. Children enrolled in private schools who receive special education services from a public agency are governed by the same laws, rules and regulations pertaining to the individualized education programs as children enrolled in the public schools.

c. Individualized education programs are to be implemented as soon as possible following the child study team meeting.

B. Monitoring Procedures

Monitoring procedures specifically address the requirements for individualized education programs (IEPs). A monitoring form clearly delineates the IEP components. A copy of the form is included in Item XV.

All local education agencies are monitored for compliance with state and federal regulations at least triannually. If deviations are found, corrective actions are given with time lines for each. Corrective actions are monitored by the State Education Agency (SEA) to ensure completion. A more extensive discussion of the monitoring process is found in Item XV, part B.

I. PROCEDURAL SAFEGUARDS

A. Policies and Procedures

1. School Laws of Montana, 1981 (Title 20, Chapter 7)

20-7-402. Special Education to Comply with Board Policies

(1) The conduct of special education programs shall comply with the policies recommended by the Superintendent of Public Instruction and adopted by the Board of Public Education. These policies shall assure, and include, but are not limited to:

- (a) placement of handicapped children in the least restrictive alternative setting;
- (b) due process for all handicapped children;
- (c) use of child study teams to identify handicapped children and use of instructional teams to plan individual education programs;
- (d) comprehensive evaluation for each handicapped child; and
- (e) other policies needed to assure a free and appropriate public education.

(2) The Superintendent of Public Instruction shall promulgate rules to administer the policies of the Board of Public Education.

2. Administrative Rules of Montana

10.60.102. Due Process in Services

Special education services shall include the provision of due process to ensure the rights of handicapped children. The goal of due process is to prevent harm to children, parents and society. Due process shall include protections regarding the following:

- (a) identification of handicap;
- (b) development of education program;
- (c) placement with the education program; and
- (d) annual review of education program and placement.

10.16.902. Parental Notification and Approval for Testing, Formal Evaluation and Interviewing

(1) If there is reason to believe that a preschool or school-age child is in need of special education services, written permission must be obtained by the local agency from the parents before the process of individual evaluation, interviewing or formal testing can begin. This shall also apply when a reevaluation is planned. The annual review of the individualized education program is exempt from the requirement for parental approval for evaluation.

(2) Written parental approval applies only to those procedures used selectively with an individual child (e.g., individual intelligence measures, audiometric evaluation, speech, voice, language evaluation, diagnostic skill testing) and not to basic tests administered to all children in school (e.g., yearly achievement measures, vision screening, hearing screening, speech screening).

(3) Prior to an evaluation or a reevaluation, the parent shall be provided with a written notice of intent to conduct an evaluation/reevaluation. The written notice must be written in language understandable to the general public and provided in the native language of the parents. Where the native language of the parents is not in written form, interpretation shall be provided orally in the native language. The written notice will be delivered to the parent during a personal conference or by certified mail. Oral interpretation shall always be made available in the native language of the home and in English. When necessary, arrangements shall be made to facilitate communication with hearing and visually impaired parents.

(a) The notice of intent to conduct an evaluation must include:

- (i) a full explanation of all of the procedural safeguards available to the parents under this chapter;
- (ii) a description of the action proposed or refused by the agency, and explanation of why the agency proposes or refuses to take the action, and a description of any options the agency considered and the reasons why those options were rejected;
- (iii) a description of each evaluation procedure, test, record or report the agency uses as a basis for the proposal or refusal; and
- (iv) a description of any other factors which are relevant to the agency's proposal or refusal.

(b) The notice of intent to conduct an evaluation must be:

(i) written in language understandable to the general public; and

(ii) provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

(c) If the native language or other mode of communication of the parent is not a written language, the local education agency shall take steps to ensure:

(i) that the notice is translated orally, or by other means, to the parent in his or her native language or other mode of communication;

(ii) that the parent understands the content of the notice; and

(iii) that there is written evidence that the requirements in paragraph (3)(a) and (b) of this section have been met.

(4) Written parental consent to conduct the evaluation must be obtained prior to the evaluation process. In addition to written parental permission to evaluate/reevaluate, the local agency should obtain written parental acknowledgement of receipt and understanding of the notice of intent.

10.16.1101. Protection in Evaluation Procedures

(1) Each education agency shall establish procedures to assure that testing and evaluation materials and procedures used for evaluation and placement of handicapped children are selected and administered so as not to be racially or culturally discriminatory.

(2) The procedures that are developed by each education agency shall be established in accordance with the following criteria:

(a) evaluation and placement procedures are administered in accordance with the procedural safeguards in Rule 10.16.902; and

(b) the determination of a child's need for special education and related services is based on a comprehensive evaluation which may include, but is not limited to:

(i) an individual psychological examination;

(ii) relevant physical information;

(iii) appropriate achievement testing and evaluation of classwork;

(iv) direct observations in a variety of functioning environments;

(v) assessment of the social skills and emotional status; and

(vi) interviews with, or information provided by, important and involved persons in the child's life.

(c) tests and other materials and procedures used for evaluating a child's abilities have been properly and professionally evaluated for the specific purposes for which they are to be used and meet the test of reasonableness in the opinion of competent professional personnel.

(d) the evaluation materials and procedures are provided and administered in the child's native language or mode of communication, unless it clearly is not feasible to do so.

(e) steps are taken to assure that a test administered to a student with a sensory, motor, speech, hearing, visual or other communicative disability or to a student who is bilingual, accurately reflects the child's ability in the area tested and not the child's impaired communication skill or the fact that the child is not skilled in English.

(f) whenever individual intelligence tests are administered, steps are taken to assure that judgments about the child's placement are not based solely on an I.Q. score, that a behavioral description and an interpretation of the child's functioning on the various subtests are made by the qualified examiner who administered the test, and that the results of the evaluation are expressed in terms of the child's strengths, weaknesses and needs.

(g) the cultural differences of a child are taken into account in interpreting the assessment information.

(h) no single test, or type of test or procedure, is used as the sole criterion for determining an appropriate educational program for the child.

(i) the interpretation of the assessment information and the subsequent determination of the educational placement of the child is made by a team or group of persons.

(j) all relevant information with regard to the functional abilities of the child is utilized in the placement determination.

10.16.903. Written Notification Before Change in Education Placement/Program

(1) Within 30 days after completion of the child study team evaluation, a designated school district official shall inform the parent in writing, orally or by other appropriate mode that a change in the educational status of the child is proposed or that a requested change in placement is denied. Notification shall be made by personal conference, if it is possible for parents to come in, or else by certified mail. Written notification must be written in language understandable to the general public and provided in the native language of the parents. The child should be informed of, and helped to understand, if

capable, the educational change. The parent must be invited to participate in the conference for developing the individualized education plan if the child is to be placed in a special education program.

(2) The form to be used to notify parents of the proposed change in the educational placement/program or to deny initiation of a requested program should be included.

(3) The notice of placement/program change should include the following:

(a) a description of the proposed education program, the reasons why the proposed placement is deemed appropriate, or the reasons why the requested program is being denied and the reasons why it is the least restrictive program setting appropriate for the education of the child;

(b) a description of any tests, reports or evaluation procedures on which the proposed education placement is based or the requested educational program is being denied;

(c) a statement that the school reports, files and records pertaining to the child shall be available for inspection to the parents or their designee as indicated in writing (copies of such records may be obtained on request at no more than the actual cost of such copying);

(d) a description of the right of the parent to obtain a hearing if there are objections to the proposed action or nonaction. This notice should emphasize that the parent need not accept the proposed decision to change or not to change the status of the child when there is disagreement with the proposed alternative program;

(e) a detailed description of the procedures the parent should use to appeal a hearing decision; and

(f) an explanation stating that if the proposed action is rejected by the parent, the child shall continue, temporarily, in the current placement unless the current placement endangers the health or safety of the child or other children and/or substantially disrupts the education programs of other children. In this instance, the local education agency shall notify the parent of the interim change in writing by certified mail in a notice which specifies:

(i) the manner in which the health and safety of the child or other children is endangered or the manner in which the educational program of other children is being disrupted,

(ii) the nature, duration and location of the interim placement, which must not exceed 15 school days,

(iii) the fact that the interim placement may be extended beyond 15 school days only on the decision of the trustees and that in no case may it extend beyond the duration of the entire due process procedures; and

(iv) the name of the person responsible for the interim placement and the date the interim placement will begin.

(g) an explanation that, in the case where a complaint involves a child who is applying for initial admission to a public school, the child shall, with the consent of the parents, be placed in the public school program until the completion of due process proceedings. In this case, the local education agency shall notify the parents of the type of interim placement in writing by certified mail using procedures established and written in item (f) immediately preceding this item in a notice which specifies:

(i) the nature, duration and location of the interim placement, which must not exceed 15 school days;

(ii) the fact that interim placement may be extended beyond 15 school days only on the decision of the hearing officer and that in no case may it extend beyond the duration of the entire due process procedures; and

(iii) the name of the person responsible for the interim placement and the date the interim placement will begin.

10.16.1102. Independent Education Evaluation

(1) Parents shall have the right to an independent educational evaluation of their child when those parents have reason to question the appropriateness of the school's educational evaluation and proposed program recommendations.

(2) The parents must state the reason(s) for their request for an independent evaluation. The local school district utilizing special education funds is responsible for the financial expense of the independent evaluation. Advance approval of any contract for an independent evaluation must be obtained from the Superintendent of Public Instruction.

(3) The following is a delineation of responsibility of the parents, district or county superintendent and the Office of Public Instruction in an independent educational evaluation:

(a) the parents must direct a request for an independent educational evaluation in writing to the district superintendent or the county superintendent when there is no district superintendent. The parents must state the reason(s) for such an evaluation:

(i) the parents must allow the local school district to complete a current evaluation (assessment during the school year) before requesting an independent evaluation;

(ii) the parents must sign a consent for evaluation to be conducted by the independent evaluator(s); and

(iii) the parents must sign a release of information between the school district and the independent evaluator(s). The school district and the independent evaluator(s) must exchange all records concerning the child. All records and information from the independent evaluation become part of the child's school record.

(b) within 10 to 15 days of a request by parents for an independent evaluation of their child, the school district must submit a letter to the Office of Public Instruction stating the child's birthdate, initials, handicapping condition (if known), dates of evaluations, instruments used and the parents' reason for an independent evaluation. When necessary, the school district will contract for the independent evaluation. This contract must have prior approval of the Office of Public Instruction.

(c) the Superintendent of Public Instruction will assist the school district and parents in securing an appropriate independent evaluation(s).

(i) the Superintendent of Public Instruction will approve or disapprove the contract for independent educational evaluation. If the contract is disapproved, an alternative independent evaluation(s) will be offered.

10.16.1108. Opportunities to Present Complaints

(1) Each agency shall establish written procedures which provide for parental presentation of complaints with respect to any matter relating to the identification, evaluation, educational placement of the child or the provision of a free appropriate public education for the child.

(2) Whenever a complaint has been received, the parents shall have an opportunity for an impartial due process hearing.

10.16.1107. Informal Negotiations

(1) When parents question or express dissatisfaction with the details set forth in the notices that an education agency provides them, the local education agency and the Superintendent of Public Instruction shall attempt to clarify the question or resolve the difference directly with the parents by informal negotiation or some procedure other than a formal due process hearing.

(2) Dissatisfaction could be with, but is not limited to, the proposed educational placement/program changes; refusals to initiate or change the identification, evaluation or educational placement of the child; or the provision of a free appropriate public education.

(3) If such efforts fail, the procedures for complaints and impartial due process hearing shall be followed.

10.6.101. Scope of Rules for School Controversy

These rules govern the procedure for conducting all hearings on school controversy cases appealed to the county superintendent and the county transportation committee. These rules shall be construed to secure the just, speedy and inexpensive determination of every action. All rules promulgated by former state superintendents with regard to school controversies contrary to these rules are hereby repealed.

(a) County Transportation Committee--All matters contested before the county transportation committee shall be governed by these rules of controversy. It shall be the duty of the county superintendent, as chairperson of the county transportation committee, to ensure compliance. All references made to the county superintendent as to the procedure on these school rules shall also include the county transportation committee where appropriate.

(b) Special Education--Due process matters concerning, and arising from, all handicapped children in this state shall be governed by these rules.

(c) Vocational Education--All references made to appropriate federal or state statutes or state plans for school controversies arising from postsecondary vocational-technical centers, or postsecondary vocational-technical education and secondary vocational courses and programs which are a part or portion of secondary school offerings, shall be governed by these rules.

(d) Family and Education Privacy Act--Due process hearings mandated by the Family and Education Privacy Act will be governed by these rules.

(e) All controversies arising under any other provision of Montana law or federal law for which a procedure for resolving controversies is not expressly prescribed shall be governed by these rules.

10.6.102. School Controversy Means Contested Case

Contested case means any proceeding in which a determination of legal rights, duties or privileges of a party is required by law.

10.6.103. Initiating School Controversy Procedure Process

(1) A person who has exhausted all remedies available within a school district and who has been aggrieved by a final decision of the governing authority in a contested case is entitled to commence such action before the county superintendent.

(2) A school controversy contested case shall be commenced by filing a notice of appeal with the county superintendent within 30 days after the final decision of the governing authority of the school district is made.

10.6.104. Jurisdiction

(1) The county superintendent shall, upon receipt of the notice of appeal, determine:

- (a) whether the appeal is a contested case;
- (b) whether he/she has jurisdiction in the matter.

(2) The county superintendent may determine that he/she does not have jurisdiction or the power to act and, therefore, render such determination and return such notice and order to the appealing party. The county superintendent, upon determination of proper jurisdiction and proper contested case, shall hear the appeal and take testimony in order to determine the facts related to the contested case.

10.6.105. Commencement of Action/Requirements of the Notice of Appeal

(1) The appealing party shall be known as Petitioner, and the responding party shall be known as Respondent.

(2) When a party appeals to the county superintendent, a notice of appeal shall include:

- (a) a caption setting forth the name and the county of the county superintendent;
- (b) the names and addresses of all appropriate parties;
- (c) a clear and concise statement of the matters asserted;
- (d) a statement indicating that the Petitioner has a contested case and that the county superintendent has proper jurisdiction;
- (e) references to the particular sections of the statute and rules involved;
- (f) that the notice of appeal shall be signed by Petitioner.

10.6.106. Notice of Hearing

(1) All parties to a hearing shall be given a notice of hearing by the county superintendent. The county superintendent shall, within 10 days upon the receipt of the notice of appeal, issue the notice of hearing. The notice of hearing shall include:

- (a) a statement of the time, place and nature of the hearing;
- (b) references to the specific statutes and rules involved available at that time;
- (c) a provision advising the parties of their right to be represented by counsel at the hearing;
- (d) a statement of the issues and matters to be discussed at the hearing;

(e) a copy attached of the original notice of appeal to the county superintendent.

(2) The notice of hearing shall be sent by certified mail to all parties indicated in the original notice of appeal.

(3) If the county superintendent does not have details of the issues and matters to be discussed at the time of issuing the notice of hearing, the party or county superintendent may later demand a more detailed account of the issues and matters to be discussed. The dates scheduled by the county superintendent in the notice of hearing may be continued by the county superintendent to such a convenient date as stipulated by the parties and approved by the county superintendent.

If the school controversy involves a pupil as defined by Montana School Law, the notice of hearing, as well as all communications conducted in the hearing, shall be written in language understandable to the general public and in the native language of the parent unless it is clearly not feasible to do so. If the native language or other mode of communication is not written language, the county superintendent shall direct the notice to be translated orally or by other means to the parent in his/her native language or other means of communication.

(4) Special Education - Access to legal assistance. The county superintendent shall inform the parent of any free or low-cost legal and other relevant services available in the area upon conferring with the Executive Director of the Montana Bar Association.

10.6.107. Conference and Informal Disposition

(1) The county superintendent may informally confer with the parties to an appeal for the purpose of attempting informal disposition of any contested case.

(2) This conference of informal disposition may occur at any time prior to the issuing of the final findings of fact, conclusions of law, and order of the county superintendent. The parties may informally confer to resolve the school controversy contested case by stipulation, agreed settlement, consent order or default. To be effective, any agreement made at such conference must be reduced to writing and signed by all parties. An agreed resolution shall end the proceedings and bar further proceedings.

(3) If it is appropriate, the county superintendent may draft findings of fact, conclusions of law and order and shall promptly send such to each party in the contested case.

10.6.108 County Superintendent's Prehearing Procedure - Formulating Issues

(1) In any action, the county superintendent may, at his/her discretion, direct the parties to appeal before him/her for a conference to consider:

- (a) the simplification of the issues;
- (b) the necessity or desirability of amendments to the pleading;
- (c) the possibility of obtaining admissions of fact and documents which will avoid unnecessary proof;
- (d) a limitation of the number of expert witnesses;
- (e) such other matters as may aid in the disposition of the action.

(2) The county superintendent may make an order which recites the action taken at the conference, the amendments to the notice of appeal and the agreements made by the parties as to any of the matters considered, and which limits the issues for the hearing to those not disposed of by admissions or agreements of counsel. Such order, when entered, will control the subsequent course of action, unless modified at the hearing to prevent manifest injustice. The county superintendent, at his/her discretion, may establish, by rule, a prehearing calendar on which actions may be placed for consideration as provided above.

(3) Individual Privacy: County superintendent shall provide for provisions to ensure the privacy of matters before them as is required by law. Parents maintain the right to waive their right of confidentiality and privacy in the hearing and may request that the hearing be open to the public. The county superintendent shall also provide or allow an opportunity for the minor to be present at the hearing upon request of the parent or guardian or non-minor pupil.

10.6.109. Discovery

The county superintendent may compel, limit or conduct discovery prior to the hearing and/or prehearing conference pursuant to rules 10 through 13.

10.6.110 Discovery Methods

(1) Parties may obtain discovery by one or more of the following methods:

- (a) depositions upon oral examination or written questions;
- (b) written questions;
- (c) production of documents (or things of permission) to enter upon land or property;
- (d) request for admissions.

(2) Any evidence to be introduced at the hearing or on file shall be made available for disclosure to all parties at least five days before the hearing.

10.6.111 Scope of Discovery

Unless otherwise limited by order of the county superintendent, the scope of discovery is as follows:

(a) in general, parties may obtain discovery regarding any matter not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party including the existence, description, nature, custody, condition and location of any books, documents or other tangible items and the identity and location of persons having knowledge of any discoverable material;

(b) a party may discover facts known or opinions held by an expert who has been retained or specially employed by another party in anticipation of litigation or preparation for hearing.

10.6.112. Limitations on Discovery by the County Superintendent

Upon motion by a party or by the person from whom discovery is sought, and for good cause shown, the county superintendent, before whom the action is pending, may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

(a) that the discovery not be had;

(b) that the discovery may be had only on specified terms and conditions, including a designation of the time or place;

(c) that the discovery may be had only by a method of discovery other than that selected by the parties seeking discovery;

(d) that certain matters should not be inquired into, or that the scope of the discovery be limited to certain matters;

(e) that discovery be conducted with no one present except persons designated by the county superintendent.

10.6.113. Sequence and Timing of Discovery

The county superintendent shall provide reasonable discovery on the relevant issues for the hearing and shall establish a calendar so as not to allow discovery delay a hearing. A request for discovery must be made within 30 days of filing the notice of appeal.

10.6.114. Ex-Parte Consultations

The county superintendent, after the issuance of the notice of hearing, shall not communicate with any party in connection with any issue of fact or law in such case except upon notice and opportunity for all parties to participate.

10.6.115. Powers of the County Superintendent

- (1) The county superintendent may:
- (a) administer oaths;
 - (b) issue subpoenas;
 - (c) provide for the taking of testimony by depositions;
 - (d) set the time and place of the hearing and direct parties to appear and confer to consider simplifications of the issues by consent of the parties involved;
 - (e) fix the time for filing of briefs or other documents;
 - (f) request the submission of proposed findings of facts and conclusions of law at the conclusion of the hearing.

(2) The county superintendent shall be bound by common law and the Montana Rules of Evidence. All evidence and objections to evidence shall be noted in the record:

- (a) any part of the evidence may be received in written form;
- (b) documentary evidence may be received in the form of copies or excerpts if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original. Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the county superintendent's specialized knowledge.

10.6.116. Hearing

(1) The hearing will be conducted before the county superintendent in the following order:

- (a) statement and evidence of the Petitioner or other party in support of its action;
- (b) statement and evidence of the Respondent in support of its action;
- (c) rebuttal testimony;
- (d) closing arguments beginning with Petitioner, ending with Respondent.

(2) The order of procedure may be changed by order of the county superintendent upon a showing of good cause.

(3) Each party shall have the right to conduct cross-examinations for a full and true disclosure of the facts, including the right to cross-examine the authority of any document prepared by, or on behalf of, or for the use of all parties and offered into evidence. All testimony shall be given under oath or affirmation.

10.6.117. Ability of Cross-Examination or Participation in the Hearing

The right to examine, cross-examine or to participate as a party in this action shall be limited to the attorneys, the particular parties named in the notice of appeal and the county superintendent.

10.6.118. Record

- (1) The record in the hearing shall include:
 - (a) all pleadings, motions, intermediate ruling;
 - (b) all evidence received plus a stenographic record of oral proceedings;
 - (c) a statement of matters officially noticed;
 - (d) questions and offers of proof, objections and proceedings thereon;
 - (e) proposed findings and exceptions;
 - (f) findings of fact, conclusions of law and order of the county superintendent.
- (2) A transcript of the hearing shall be taken by a certified court reporter and transcribed upon request of the county superintendent.

10.6.119. Final Order

- (1) The final order by the county superintendent shall be in writing and shall include findings of fact and conclusions of law separately stated. Findings of fact, as set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.
 - (a) Findings of fact shall be based exclusively on the evidence and on matters officially noticed.
 - (b) Each conclusion of law shall be supported by authority or by a reasoned opinion.
 - (c) Final order shall inform the parties of their right to appeal the order to the State Superintendent of Public Instruction by attaching a copy of the Uniform Rules of Administrative Appellate Procedure for the State Superintendent of Public Instruction with the final order.
- (2) Special education: The county superintendent shall ensure that, not later than 45 days after the receipt of a notice of appeal, the final decision is reached in the hearing and copy of the decision is mailed to each party for all cases regarding education for the handicapped. Parties to the school controversy case may waive this time limitation upon request of the county superintendent or upon request of the other party.
- (3) The county superintendent shall ensure, for all cases other than cases regarding education of the handicapped, that not later than 90 days after the receipt of the notice of appeal a final order is reached and a copy of the findings of fact, conclusions of law and order is mailed to each party. The time limitation provided here may be waived upon request of the county superintendent or a party of the school controversy contested case upon stipulation of all parties.

(4) County Transportation Committee: In the case of an appeal to the county transportation committee, the committee shall meet and vote in open session whether to grant or deny the appeal or request for consideration. The members of the majority shall appoint one member to prepare findings of fact, conclusions of law and order which shall then be adopted at an open meeting of the transportation committee and signed by all members of the majority. Any member of the minority may put the reasons for his/her vote in writing and this shall be made part of the record.

10.6.120. County Attorney Rule

The county attorney shall serve as the legal advisor for the county superintendent of schools in all school controversy contested cases. In the event the county attorney is unable to serve in that capacity, the county superintendent shall designate another qualified attorney to serve as a legal advisor for the county superintendent.

(UNIFORM RULES OF ADMINISTRATIVE APPELLATE PROCEDURE ON CONTESTED CASES BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION)

10.6.121. Appellate Procedure - Scope of Rules

(1) The Superintendent of Public Instruction shall decide matters of controversy when they are appealed from a decision of a county superintendent.

(2) All references made to the county superintendent as to the procedure on these rules shall also include the county transportation committee where appropriate.

(3) All references made in these rules shall maintain consistency with the Uniform Rules of Procedure for all School Controversy Contested Cases before the county superintendent of the state of Montana.

(4) A party who is aggrieved by a final decision in a contested case before the county superintendent is entitled to appellate review by administrative appeal to the State Superintendent. The Superintendent of Public Instruction shall make his/her decision on the basis of the record established at the county superintendent hearing and upon review of the findings of fact, conclusions of law, and order of the county superintendent.

10.6.122. Appellate Procedure - Notice of Appeal - Filing

An appeal shall be taken by filing a notice of appeal with the State Superintendent of Public Instruction and a copy of such notice of appeal with the county superintendent. Failure of any party to take any step other than the timely filing of a notice of appeal does not affect the validity of the appeal but is grounds for such action as the State Superintendent deems appropriate, which may include dismissal of the appeal.

10.6.123. Appellate Procedure - Contents of the Notice of Appeal

The appealing party shall be known as Appellant, and the responding party shall be known as Respondent. When a party appeals to the State Superintendent of Public Instruction, a notice of appeal shall include:

- (a) a caption setting forth the name of the State Superintendent of Public Instruction;
- (b) the name and addresses of all appropriate parties;
- (c) a clear and concise statement of the matters asserted on appeal;
- (d) a statement indicating that Appellant has a contested case, identifying the county superintendent from which the appeal is taken and whether the State Superintendent has proper jurisdiction;
- (e) references to the particular sections of the statutes and rules involved;
- (f) the signature of the Petitioner and/or his/her attorney;
- (g) a copy of the findings of facts, conclusions of law, and order of the county superintendent.

10.6.124. Appellate Procedure - Transmission of Record

Upon receipt of the notice of appeal to the State Superintendent of Public Instruction, the county superintendent shall transmit the record from his/her order. The record shall contain all items identified in Rule 18 of the Uniform Rules of School Controversy including a transcribed transcript of the proceedings. Such records shall be transmitted to the State Superintendent within 30 days upon receipt of the notice of appeal to the State Superintendent unless otherwise ordered by the State Superintendent.

10.6.125. Appellate Procedure - Standard of Review

- (1) The State Superintendent of Public Instruction may use the standard of review as set forth below and shall be confined to the record unless otherwise decided.
- (2) In cases of alleged irregularities in procedure before the county superintendent not shown on the record, proof thereof may be taken by the State Superintendent.
- (3) Upon request, the State Superintendent shall hear oral arguments and receive written briefs.
- (4) The State Superintendent may not substitute his judgment for that of the county superintendent as to the weight of the evidence on questions of fact. The State Superintendent may affirm the decision of the county superintendent or remand the case for further proceedings or refuse to accept the appeal on the grounds that the State Superintendent fails to retain proper jurisdiction on the matter. The State Superintendent may reverse or modify

the decision if substantial rights of the Appellant have been prejudiced because the findings of fact, conclusions of law and order are:

- (a) in violation of constitutional or statutory provisions;
- (b) in excess of the statutory authority of the agency;
- (c) made upon unlawful procedure;
- (d) affected by other error of law;
- (e) clearly erroneous in view of the reliable, probative and substantial evidence on the whole record;
- (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion;
- (g) because findings of fact upon issues essential to the decision were not made although requested.

10.6.126. Appellate Procedure - Commencement of Action

The Superintendent of Public Instruction may require: affidavits, verified statements, sworn testimony on the facts and issues, written briefs and oral arguments.

10.6.127. Appellate Procedure - Time

(1) Appellant shall appeal from the order of the county superintendent of schools to the State Superintendent of Public Instruction within 30 days after the rendering of such order unless the time is shortened or extended by an order entered by the State Superintendent upon good cause showing. If a party petitions for a re-hearing before they appeal the final decision to the State Superintendent, then the 30-day statute of limitations shall be tolled until a final decision has been rendered by the county superintendent.

(2) The decision of the Superintendent of Public Instruction shall be rendered within 90 days after the case has been deemed submitted by the State Superintendent. Parties shall be notified by the State Superintendent of cases requiring additional time who shall by affidavit attest to the additional time required.

(3) Special Education. The State Superintendent shall ensure that, no later than 30 days after the receipt of a request for a review, a final decision and order is reached in the review and a copy of the decision and order is mailed to each of the parties. The State Superintendent may grant specific extensions of time beyond the period set out beyond 30 days upon the request of either party and/or the State Superintendent upon the stipulation of both parties.

10.6.128. Appellate Procedure - Decision

The decision and order of the Superintendent of Public Instruction shall be final, subject to the proper legal remedies in the state/federal courts. Such proceedings shall be commenced no later than 60 days after the date of the decision and order of the State Superintendent of Public Instruction.

10.6.129. Appellate Procedure - Failure to Comply with These Rules

Every party to a controversy shall comply with these rules of procedure. Failure of one party to do what is required and which substantially prejudices the proceedings is cause for dismissal or reversal as appropriate.

10.6.130. Appellate Procedure

The State Superintendent may, upon agreement of all parties, conduct oral argument by means of telecommunication or teleconferencing methods.

10.16.904. Placement/Program Maintained

A child shall continue, temporarily, in the current placement wherever parents do not give written consent for a change in their child's educational program, except in a case where the current placement endangers the health or safety of the child or other children and/or substantially disrupts the educational programs of other children or, if applying for initial admission to a public school, a child shall, with the consent of parents or guardian, be placed in the public school program until all such legal proceedings have been completed. In this case, Rule 10.16.903, items (f) and (g) shall be followed.

10.16.1104. Surrogate Parents

(1) The state education agency shall ensure that the rights of a child are protected when the parents of the child are not known, unavailable or the child is a ward of the state including the assignment of an individual to act as a surrogate for the parents. This must include a method for determining whether a child needs a surrogate parent and for assigning a surrogate parent to the child.

(2) The state or local education agency may select a surrogate parent in any way permitted under state law.

(3) State and local education agencies shall ensure that a person selected as a surrogate:

(a) has no interest that conflicts with the interests of the child he or she represents; and

(b) has knowledge and skills that ensure adequate representation of the child.

(4) A person assigned as a surrogate must not be an employee of the state or local education agency which is involved in the education or care of the child.

(5) A person who otherwise qualifies to be a surrogate parent under this rule is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent.

(6) The surrogate may represent the child in all matters relating to:

(a) the identification, evaluation and educational placement of the child; and

(b) the provision of a free appropriate public education to the child.

3. Policy Statement

Hearing officers shall transmit their findings and decisions, after deleting any personally identifiable information, to the Montana Special Education Advisory Panel, Office of Public Instruction, Helena, Montana 59620.

VII. LEAST RESTRICTIVE ENVIRONMENT

A. General

Programs, Services, Activities and Resources

Special education service delivery patterns vary extensively throughout Montana. The larger urban school districts tend to have more elaborate and extensive services available within and as a part of the school systems themselves. The more rural districts in the state must rely heavily on itinerant consultative and contract-type services to meet the needs of handicapped school children. All districts have available to them direct and support services such as (1) screening and identification, (2) evaluation, (3) resource room instruction, (4) self-contained classes, (5) speech therapy, (6) occupational therapy, (7) transportation and (8) counseling. Rural districts have special education teachers in district, but must generally contract either with private corporations (e.g., Easter Seal) or private individuals in order that other services such as speech therapy, physical therapy, etc., be afforded handicapped children in their area.

With the passage of House Bill 283, the 1979 Montana Legislature abolished Regional Services programs for special education. In their place, the bill allowed for the development of local special education "cooperatives."

The cooperatives have been developed by local efforts, and agreements were created to allow for the provision of total services to handicapped youngsters. Most of the 25 cooperatives exist in very rural regions of the state largely due to the lack of available individual district services. Small rural districts are forced to share services in order that full educational opportunities be provided handicapped youngsters in their regions. The funding for cooperatives is

directed through a "host" agency. This agency is responsible for the flow of all dollars and provides general leadership through the director of special education. A board for the cooperative provides specific directions and is comprised of member district superintendents.

B. Policy and Procedures

1. School Laws of Montana, 1981 (Title 20, Chapter 7)

20-7-411. Regular Classes Preferred -- Obligation to Establish Special Education Program

(1) All handicapped children in Montana are entitled to a free appropriate public education provided in the least restrictive alternative setting. To the maximum extent appropriate, handicapped children, including children in public or private institutions or other care facilities, shall be educated with children who are not handicapped. Separate schooling or other removal of handicapped children from the regular educational environment may occur only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

(2) After September 1, 1977, the board of trustees of every school district must provide or establish and maintain a special education program for every handicapped person as herein defined between the ages of 6 and 18, inclusive.

(3) The board of trustees of any school district may meet its obligation to serve handicapped persons by establishing its own special education program, by establishing a cooperative special education program or by participating in a regional services program.

20-7-451. Authorization to Create Full Service Special Education Cooperatives

(1) A school district may contract with one or more other school districts to establish a cooperative to perform all special education administrative services, activities and undertakings that the school district entering into the contract is authorized by law to perform. The cooperative contract must be authorized by the boards of trustees of the districts entering into the contract.

(2) A cooperative contract may allow money allocated to a cooperative to be expended for:

(a) recruitment of professionals or employees for the cooperative; and

(b) facility rental and supportive services including, but not limited to, janitorial and communication services.

(3) The Superintendent of Public Instruction may transfer directly to a cooperative the state and federal portion of a district's budgeted costs for contracted special education services.

2. Administrative Rules of Montana

10.16.1301. Services in General

(1) Individual assistance for a handicapped student shall be accomplished through utilization of the least restrictive educational alternative. Under the least restrictive educational alternative, handicapped students shall be educated, whenever possible, with students who are not handicapped. Removal of handicapped children from the regular educational environment (e.g., placement in special classes housed in separate school facilities) will only occur when the nature or severity of the handicap is such that education in regular classes with use of supplementary aids and services cannot be achieved satisfactorily.

(2) To meet the needs of each handicapped person, districts should afford children access to a variety of instructional and service options. (Every district cannot be expected to have all the necessary resources to develop as many services as are necessary to meet the needs of handicapped children in the district. Services will be developed as availability of qualified staff permits.) Small school districts with a minimal number of handicapped students should seek to serve those students with programs and services coordinated with nearby districts and/or through special education cooperatives.

10.16.1302. Resource Instruction and Service

(1) Instruction from a resource service requires that the special education teacher be available to provide direct service to handicapped students who are enrolled in the regular instructional program. Resource instruction may be provided by a resource teacher working with handicapped students in the regular classroom or by removing the students to a separate resource room for some part of the school day. A student should not be removed from the regular classroom to a separate resource room unless the move is essential in meeting the specific needs of a child. The resource teacher is responsible for ongoing consultation and communication with the child's regular classroom teacher(s) regarding specific needs and recommendations of materials and instructional procedures and to exchange information for parent conferences. The resource teacher and the regular instructional staff should coordinate their efforts and expertise frequently and systematically to best serve the student.

(2) The special education teacher assigned to a resource program is responsible for assisting in child study team assessment, translating strategies, preparing materials, providing instruction, maintaining appropriate records of progress and conferring with parents and regular teachers. The resource teacher should periodically follow up on children who have been phased out of special education programs to determine their progress in the regular classroom.

(3) Space and equipment needed to support the resource service must be provided.

10.16.1303. Case Load of a Resource Service

A teacher of a resource service should have a minimum case load of eight handicapped students per day before establishing a first full-time service. The maximum number of students assigned to each resource service should not exceed 25 students per week. In situations where fewer than eight students per day can be documented for a first full-time service or where fewer than 25 students per week can be documented in an established service, the full-time equivalent to be approved shall be negotiated with the Office of Public Instruction based on special education needs of the children, utilizing the recommendation of the child study teams.

10.16.1304. Adding Resource Services

If a school district is considering adding resource services, the district must first establish the maximum number of handicapped students able to be accommodated in existing services. Once each resource service is filled to the maximum, the school may provide service on a part-time basis by prorating the number of additional handicapped students until an additional full-time resource service is justified.

10.16.1305. Resource Service is Non-Categorical

A resource service may serve a combination of handicapping conditions as long as the needs of the children assigned to the service are appropriately met through this option.

10.16.1306. Itinerant Resource Speech and Hearing Service

(1) Speech and hearing services traditionally operate on an itinerant resource model.

(2) The case load for a speech pathologist depends on the severity of the handicapped students to be served. The suggested range is from 15 to 60 children. The case load must be verified by a fully licensed speech pathologist before it will be approved by the Superintendent of Public Instruction. If the case load includes primarily hearing

handicapped students, then the case load must be verified by a fully licensed audiologist and coordinated with the child study team for hearing impaired students. A full-time speech pathologist's suggested minimum student base population is one clinician per 1,000 students. Exceptions are to be negotiated with the Superintendent of Public Instruction.

(3) When an audiologist is working in a therapeutic capacity, that individual has the case load recommended for a speech pathologist.

10.16.1307. Self-Contained Instruction

(1) Service through self-contained instruction results when the child study team determines that a child exhibits an intellectual, adaptive, learning, social and/or emotional impairment so severe that removal from the regular instructional program for more than 50 percent of the school days is essential and that education in a regular instructional program with the assistance of resource instruction will not provide an appropriate education.

(2) The teacher in a self-contained program is responsible for assisting in the child study team assessment, translating assessment findings into appropriate educational objectives and implementing and evaluating instructional procedures necessary to achieve these objectives. To ensure that capable students have an opportunity to return to the regular instructional program, it is important that a thorough system of referral, assessment, programming and termination be developed. Communication with the regular instructional staff, particularly with the regular classroom teacher, is of utmost importance and requires careful planning by all concerned.

(3) The age range of children assigned to a self-contained classroom should be considered in establishing the composition of the class. Chronological age range greater than six years is not recommended. The actual range should be determined by the school administration utilizing the recommendations of the child study team.

(4) A minimum of four handicapped students needing removal from the regular instructional program for more than 50 percent of the school day is required for a self-contained class. The school administration shall determine the number of students assigned to the program by utilizing the recommendations of the child study team. The type and severity of the handicapping condition of the students should be considered in recommending class size. It is recommended that self-contained classes not exceed 12 students.

When there are fewer than four students who require removal from the regular program for more than 50 percent of the school day, an existing resource program may be utilized to provide full-time self-contained services.

(5) Once a self-contained class reaches the maximum number of students as recommended by the child study team, the school administration must give consideration to providing the teacher with additional child management help, such as an aide, so that the class may accommodate more handicapped students. Dividing the class after these alternatives have been utilized is an administrative decision which must take the child study team recommendations into consideration, as well as the recommendations for student/teacher ratios given in Rule 10.16.1307.

If a self-contained class is at minimum levels, consideration should be given to utilizing the class so it provides resource instruction accommodating other handicapped students.

(6) Self-contained service is non-categorical and a self-contained service may serve a combination of handicapping conditions as long as the needs of the children assigned to the service are appropriately met through this program option.

(7) Space and equipment needed to support the self-contained class must be provided. The classroom should be in a school building and should be comparable to regular classrooms in that school district. Handicapped children shall not be discriminated against because of the lack of appropriate facilities. Any deviation of special education classrooms must receive approval from the Superintendent of Public Instruction.

(8) The length of the school day follows provisions established in 20-1-302 unless the child, for physical reasons, cannot attend for the standard school day. This determination will be made by the child study team.

10.16.1308. Services to Homebound and/or Hospitalized Students

(1) Services to any homebound and/or hospitalized students may be provided when a medical doctor verifies that a student is hospitalized or provides medical documentation and reasons for the student's need to remain out of school.

(2) When the child study team has completed a comprehensive education evaluation as outlined in Rule 10.16.1203, the service may be extended to the student. However, the procedure in Rule 10.16.2001 must be followed.

10.16.1309. Contracted Services

A school district may serve a handicapped child through contracted services. The contracted services may be diagnostic and/or instructional.

10.16.1310. Out-of-District Services

(1) If a school district is unable to provide services for its resident handicapped students or unable to provide services through cooperative services, the school district may have to use out-of-district placement. The decision to place a child out of district may be recommended by the resident district child study team and approved by the resident district board of trustees. Placement made independently of the public school by the parents and/or other agencies relieves the public school of all financial obligations.

(2) When a child is handicapped to such a degree that a totally controlled environment is needed, residential school placement may be essential. Room and board and tuition costs are considered allowable costs in the district's special education budget. The public school is only responsible for room and board and educational costs. Other services such as psychiatric therapy and/or medical treatment must be deleted from the special education costs and assumed by parents and/or other agencies. An out-of-district placement must be approved by the Superintendent of Public Instruction. (See Rule 10.16.2001(1).)

(3) A district must first make a reasonable attempt to secure and utilize in-state resources before out-of-state placement will be approved.

(4) It is the resident district's responsibility to convene the child study team and set the time and place for conducting a review of the child's needs and educational placement. The receiving district is responsible for providing program monitoring and assisting the resident district with conducting an annual review of the child's program and progress. The receiving district shall provide pertinent data regarding the child's program and progress to the resident district and parents.

(5) The resident district and receiving district should form a joint child study team to consider the evaluation data and explore program options.

(6) A cooperative staff may provide supportive services when such services are not available through the local district. Please refer to Rule 10.16.1204, Composition of a Core Child Study Team.

(7) The resident school district is required to budget for room and board costs (0555-Transportation) in its special education budget. Budget approval does not mean the school district has authorization to send a specific child out of district. Approval shall also be obtained

from the school district or agency which is providing the services. Program evaluation is the responsibility of both the resident school district and the providing school district or agency.

(8) If a handicapped child is placed out of state, tuition charges are covered under Contracted Services 01-01-0280.

(9) It is the responsibility of the resident school district to ensure that an out-of-district living facility is an appropriately licensed facility. An inquiry should be made to the local social and rehabilitation services division to secure appropriate facilities. The local division can provide the school district with a list of homes which are licensed and/or procedures by which a home can be licensed. Payment schedules should follow rates set by social and rehabilitation services division. Any deviation from that schedule should be based on severity of handicap and shall receive concurrence from social and rehabilitation services and approval from the Superintendent of Public Instruction.

10.16.1311. Responsibilities for Out-of-District Services

(1) To ensure that the request for an out-of-district placement is appropriate and follows the special education rules and regulations, the following items must be addressed.

(2) The resident school district will:

(a) assure that all students considered for out-of-district placement shall be processed by a resident child study team and approved by the board of trustees;

(b) assure that the child study team, in recommending out-of-district placement, has:

(i) identified service options outside of the district;

(ii) outlined reasons why services cannot be provided by the resident district; and

(iii) specified date requested for placement.

(c) investigate placement options and assure that the selection of placement is in keeping with the least restrictive alternative;

(d) make transportation arrangements;

(e) specify criteria for the student's return to the resident district; and

(f) outline provisions for program monitoring and annual review.

(3) The receiving school district will:

(a) form a child study team to determine acceptance and whether appropriate services can be offered; and

(b) conduct periodical review and report results to the appropriate official of the resident district.

(4) The resident school district will conduct an annual review of each child placed out of district.

(5) Through the child study team, the resident school district will annually make recommendations for either continued out-of-district placement or termination.

(6) Based on the child study team reports, the resident school district will submit a recommendation to the Superintendent of Public Instruction for continued out-of-district placement.

3. Policy Statements

a. Each public agency will ensure that handicapped children participate, to the maximum extent possible, with non-handicapped children in nonacademic and extracurricular services and activities. These services and activities may include counseling, athletics, transportation, health, recreational, special interest groups or clubs, referral and employment assistance, meals and recess.

b. When selecting the appropriate placement in the least restrictive environment, each public agency must ensure that the placement is:

(1) As close as possible to the child's house;

(2) In the school which the child would attend if not handicapped unless the individualized education program requires some other arrangement; and

(3) Consideration is given to any potential harmful effect on the child or on the quality of needed services.

C. Interagency Agreements Between the Office of Public Instruction, Department of Special Services and Other State Agencies

1. Department of Institutions

2. Department of Vocational Education Department of Social and Rehabilitative Services Developmental Disabilities Division Vocational Rehabilitation

Interagency Agreements Between:

Department of Institutions

and

Department of Vocational Education
Department of Social and Rehabilitation Services
Development Disabilities Division
Vocational Rehabilitation

INTERAGENCY AGREEMENT

AGREEMENT BETWEEN:

THE STATE OF MONTANA
DEPARTMENT OF INSTITUTIONS

and

THE OFFICE OF PUBLIC INSTRUCTION
DEPARTMENT OF SPECIAL SERVICES

DECEMBER 1981 - DECEMBER 1984


PURPOSE OF AGREEMENT

To clarify procedures between the Department of Institutions, State of Montana, and the Department of Special Services, Office of Public Instruction, regarding educational activities for handicapped individuals within Montana's state institutions operated by the Department of Institutions.

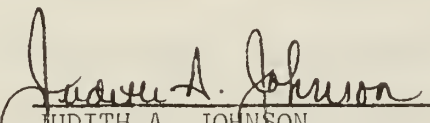
STATEMENT OF INTENT

It is the intent of the Department of Institutions and the Department of Special Services to annually conduct joint monitoring of the educational programs in the following state institutions serving handicapped children: Boulder River School and Hospital; Warm Springs State Hospital, Children's Unit; Eastmont Training Center; Pine Hills; Mountain View; and Swan River Youth Camp. Monitoring activities of the educational programs will follow guidelines set by P.L. 94-142, P.L. 93-112, Montana State Law and Administrative Rules for the Office of Public Instruction. It is the intent that the compliance of these documents will be met by each institution education program when applicable. Results of monitoring and compliance issues will be issued by the Department of Institutions with prescribed activities directed to the state institutions. Monitoring of corrective actions will be conducted by the Department of Institutions in cooperation with the Department of Special Services.

Agreed upon this date, December 2, 1981, and, unless amended, is in effect until January 1, 1984.



CARROLL SOUTH
Director
State of Montana
Department of Institutions



JUDITH A. JOHNSON
Assistant Superintendent
Office of Public Instruction
Department of Special Services

Attachments:

P.L. 94-142
P.L. 93-112 (Section 504)
Title 53, Title 20, Montana Code Annotated
Administrative Rules, Office of Public Instruction

MONTANA'S
AGREEMENT OF COOPERATION
among the
DEPARTMENT OF SPECIAL SERVICES (OPI)
DEPARTMENT OF VOCATIONAL EDUCATION (OPI)
DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES (SRS)
DEVELOPMENTAL DISABILITIES DIVISION (DDD)
VOCATIONAL REHABILITATION (RSD/VSD)

1. GENERAL STATEMENT OF PHILOSOPHY

The purpose of this Cooperative agreement is to mobilize all resources, in particular OPI and SRS on behalf of vocationally handicapped students so as to assist those students in achieving their optimum functioning level. Each agency retains sole responsibility for final decisions relative to eligibility for their respective services and relative to the nature and scope of services to be purchased by the agency.

This is a non-binding statement of understanding among all the parties involved in this agreement.

Under this noncontractual agreement, the following responsibilities will be necessary for the successful delivery of the services needed by vocationally handicapped students enrolled in the programs of local educational agencies.

This Agreement is not intended to deter or counter the responsibilities of the parties to this agreement to perform such duties as may be required under federal or state laws and rules relating to vocationally handicapped students.

A. ALL PARTIES UNDERSTAND AND AGREE AS FOLLOWS:

- 1) To encourage local educational agencies to hold periodic joint staff meetings in which counselors, supervisors, principals, special education teachers, vo-ed teachers, DDD staff and others participate for the purposes of exchanging information and creating a better understanding of their respective services.
- 2) To invite a representative from any other party or agency to attend meetings of any existing advisory council.
- 3) To promote educational and public informational programs to create a better public understanding of the respective services of the parties to this agreement.

- 4) To abide by and comply with Sections 503 and 504 of the Rehabilitation Act of 1973 (PL 93-112) and those relevant portions of the Education for all Handicapped Children Act (PL 94-142) and the Vocational Education Act of 1976 (PL 94-482).
- 5) To safeguard client information: The disclosure of information by any party concerning a client in violation of any rule of confidentiality or for any purpose not directly connected with the administration of any responsibilities with respect to purchased services hereunder is prohibited, except on written consent of client, his attorney, and/or his responsible parent or guardian. This requirement of the respective confidentiality laws, rules, and policies governing the parties to this agreement.
- 6) To invite members of other parties to appropriate in-service training.

B. THE SPECIAL SERVICES DEPARTMENT (OPI) AGREES:

- 1) To be the sole administrator of the delivery of special education but to do so in coordination with all parties to this agreement.
- 2) To assist the local school districts in meeting the educational needs of all handicapped students who require a special program.
- 3) To facilitate the efforts of local school districts in referring all handicapped students considered to be eligible and feasible for services to appropriate agencies in accordance with those agencies' eligibility criteria.
- 4) To encourage the efforts of local school districts in providing the necessary diagnostic information for establishing eligibility for the services available from the parties to this agreement. Therefore, all parties to this agreement, upon giving reasonable notice at any reasonable time shall have access to records, if the parents or students (if of majority) sign a release directed to the local district. This provision is subject to any requirements governing confidentiality.

C. DEPARTMENT OF VOCATIONAL EDUCATION (OPI) AGREES:

- 1) To provide technical assistance involving vocational training of a handicapped student to any state agency or school district.

- 2) To provide funding through established application procedures to eligible agencies on a matching basis so as to initiate vocational training for the handicapped.
- 3) To cooperate with the parties of this agreement in the development of an individual plan for each handicapped student.

D. THE DEVELOPMENTAL DISABILITIES DIVISION (SRS) AGREES:

- 1) To provide for the participation of representatives of the Division and of its providers on these child study teams involving developmentally disabled clients and to assist with the development of appropriate individual plans.
- 2) To approve the nature and scope of services to be provided by or under any contract to the Developmental Disabilities Division.
- 3) To accept referrals of developmentally disabled individuals who need services provided by the Developmental Disabilities Division in addition to services provided by the local education agency.
- 4) To provide as may be needed administrative, technical, and consultive services through the state and regional DDD staff.

E. VOCATIONAL REHABILITATION (SRS) AGREES:

- 1) To authorize and approve all vocational rehabilitation expenditures necessary to the plan of operation.
- 2) To certify eligibility, issue authorizations and formulate all Individual Written Rehabilitation Programs. The parties understand and agree that the eligibility of individuals to receive the purchased services shall be determined by Vocational Rehabilitation. Services can only be provided to handicapped individuals defined under the applicable provision of 34 CFR, Part 361 as follows:

Any individual who has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment and can reasonably be expected to benefit in terms of employability from vocational rehabilitation services.

- 3) To accept referrals of those physically and/or mentally handicapped blind and/or visually

impaired individuals, those students being in their last year of High School, who need vocational rehabilitation services over and above those services provided for in the State Plan for Vocational Rehabilitation.

- 4) To provide through the state and district Vocational Rehabilitation staff administrative, technical and consultative services as may be needed.
- 5) To carefully monitor the wage and hour regulations on state and federal child labor which govern school rehabilitation clients in paid training sites.

F. THIS AGREEMENT WILL BE REVIEWED AND UPDATED ON OR BEFORE:

DATE: July 1, 1983

Gene Christiaansen

GENE CHRISTIAANSEN, ASSISTANT SUPERINTENDENT
DEPARTMENT OF VOCATIONAL EDUCATION (OPI)

Judy Johnson

JUDY JOHNSON, ASSISTANT SUPERINTENDENT
DEPARTMENT OF SPECIAL SERVICES (OPI)

Jack Ellery

JACK ELLERY, ADMINISTRATOR
DEVELOPMENTAL DISABILITIES DIVISION
SOCIAL AND REHABILITATION SERVICES

W. R. Donaldson

W. R. DONALDSON, ADMINISTRATOR
VOCATIONAL REHABILITATION (RSD/VSD)
SOCIAL AND REHABILITATION SERVICES

D. Monitoring and Training Activities

The SEA shall monitor all educational programs for the handicapped to ensure compliance with state and federal mandates. This includes the review of and assurance from private and public institutions to implement the requirements of serving children in the least restrictive environment.

Through the distribution of rules and regulations, the on-site monitoring reviews, inservice training activities and SEA technical assistance efforts, LEAs are informed of their responsibilities regarding the requirements of least restrictive environment.

To ensure LEA compliance with existing state and federal laws and regulations, the on-site monitoring teams will conduct random in-depth reviews of individual CST reports and determine if in fact criteria established have been met. Determination of compliance will be made by the monitoring team based on (1) review of the CST report, (2) review of appropriate program availability within the district, (3) on-site observation of the child within the educational setting and (4) the services provided.

Upon determination that a child is not receiving appropriate services or placement does not conform to criteria of the least restrictive environment, the monitoring team shall:

1. Notify the LEA or SOP in writing that either appropriate services or placement in the least restrictive environment do not comply with state and federal regulations.
2. Provide the LEA or SOP with written documentation of areas of noncompliance and suggest steps by which the child study team might comply with stated regulations. It is neither the intent nor the desire of the monitoring team to establish specific objectives, services or specific placement of the child, only to direct the child study team to comply with state and federal law.

Upon receiving written notification of discrepancies in services or placement in the least restrictive environment, the Office of Public Instruction will notify the LEA or SOP of the necessary corrective actions, time lines and sanctions if appropriate.

Further assurance by LEAs of the establishment of least restrictive environment requirements are afforded in Part B application. The Office of Public Instruction requires a "sign-off" by an LEA assuring that the least restrictive environment requirement is met. This "sign-off" must be noted before Part B dollars are released by the Office of Public Instruction to any LEA.

The Office of Public Instruction, Department of Special Services, has developed a multi-media Child Study Team Training Package. This package is made available to administrators, teachers and directors of special education. The package includes filmstrips, tapes, overhead transparencies, films and

a series of printed materials that deal specifically with the CST and the placement of the student in the least restrictive environment. These packages are used for numerous on-site workshops by district directors of special education and directors of special education cooperatives. State level presentations are made by the Office of Public Instruction at state meetings of the Montana Education Association, Council for Exceptional Children and the Council for Administrators of Special Education. Workshops are conducted through the State Law Enforcement Academy to instruct judges, attorneys, juvenile counselors, social workers and probation officers in the CST process, the least restrictive environment and state and federal laws pertinent to services for handicapped children.

VIII. PROTECTION IN EVALUATION PROCEDURES

A. Policy and Procedures

1. School Laws of Montana, 1981 (Title 20, Chapter 7)

20-7-402. Special Education to Comply with Board Policies

(1) The conduct of special education programs shall comply with the policies recommended by the Superintendent of Public Instruction and adopted by the Board of Public Education. These policies shall assure and include but are not limited to:

(a) placement of handicapped children in the least restrictive alternative setting;

(b) due process for all handicapped children;

(c) use of child study teams to identify handicapped children and use of instructional teams to plan individual education programs;

(d) comprehensive evaluation for each handicapped child; and

(e) other policies needed to assure a free and appropriate public education.

(2) The Superintendent of Public Instruction shall promulgate rules to administer the policies of the Board of Public Education.

20-7-403. Duties of Superintendent of Public Instruction

The Superintendent of Public Instruction shall supervise and coordinate the conduct of special education in the state by:

(1) recommending to the Board of Public Education adoption of those policies necessary to establish a planned and coordinated program of special education in the state;

(2) administering the policies adopted by the Board of Public Education;

(3) certifying special education teachers on the basis of the special qualifications for such teachers as prescribed by the Board of Public Education;

(4) establishing procedures to be used by school district personnel in identifying handicapped children;

(5) recommending to districts the type of special education class or program needed to serve the handicapped children of the districts and preparing appropriate guides for developing individual education programs;

(6) seeking, for local districts, appropriate interdisciplinary assistance from public and private agencies in diagnosing the special education needs of children, in planning programs and in admitting and discharging children from such programs;

(7) assisting local school districts, institutions and other agencies in developing full service programs for all handicapped children;

(8) approving, as they are proposed and annually thereafter, those special education classes or programs which comply with the laws of the state of Montana, policies of the Board of Public Education and the regulations of the Superintendent of Public Instruction;

(9) providing technical assistance to district superintendents, principals, teachers and trustees;

(10) conducting conferences, offering advice and otherwise cooperating with parents and other interested persons;

(11) acting as the coordinating agency with federal agencies, other state agencies, political subdivisions of the state and private bodies on matters concerning special education, reserving to the other agencies and political subdivisions their full responsibilities for other aspects of the care of children needing special education;

(12) administering regional special education services for children in need of special education in accordance with policies of the Board of Public Education; and

(13) contracting for the delivery of audiological services to those children allowed by Montana law in accordance with policies of the Board of Public Education.

2. Administrative Rules of Montana

10.16.902. Parental Notification and Approval for Testing, Formal Evaluation and Interviewing

(1) If there is reason to believe that a preschool or school-age child is in need of special education services, written permission must be obtained by the local agency from the parents before the process of individual evaluation, interviewing or formal testing can begin. This shall also apply when a reevaluation is planned. The annual review of the individualized education program is exempt from the requirement for parental approval for evaluation.

(2) Written parental approval applies only to those procedures used selectively with an individual child (e.g., individual intelligence measure, audiometric evaluation, speech, voice, language evaluation, diagnostic skill testing) and not to basic tests administered to all children in school (e.g., yearly achievement measures, vision screening, hearing screening, speech screening).

(3) Prior to an evaluation or a reevaluation, the parent shall be provided with a written notice of intent to conduct an evaluation/reevaluation. The written notice must be written in language understandable to the general public and provided in the native language of the parents. Where the native language of the parents is not in written form, interpretation shall be provided orally in the native language. The written notice will be delivered to the parent during a personal conference or by certified mail. Oral interpretation shall always be made available in the native language of the home and in English. When necessary, arrangements shall be made to facilitate communication with hearing and visually impaired parents.

(a) The notice of intent to conduct an evaluation must include:

(i) a full explanation of all of the procedural safeguards available to the parents under this chapter;

(ii) a description of the action proposed or refused by the agency, an explanation of why the agency proposes or refuses to take the action, and a description of any options the agency considered and the reasons why those options were rejected;

(iii) a description of each evaluation procedure, test, record or report the agency uses as a basis for the proposal or refusal; and

(iv) a description of any other factors which are relevant to the agency's proposal or refusal.

(b) The notice of intent to conduct an evaluation must be:

(i) written in language understandable to the general public; and

(ii) provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

(c) If the native language or other mode of communication of the parent is not a written language, the local education agency shall take steps to ensure:

(i) that the notice is translated orally, or by other means, to the parent in his or her native language or other mode of communication;

(ii) that the parent understands the content of the notice; and

(iii) that there is written evidence that the requirements in paragraph (3)(a) and (b) of this section have been met.

(4) Written parental consent to conduct the evaluation must be obtained prior to the evaluation process. In addition to written parental permission to evaluate/reevaluate, the local agency should obtain written parental acknowledgement of receipt and understanding of the notice of intent.

10.16.1101. Protection in Evaluation Procedures

(1) Each education agency shall establish procedures to assure that testing and evaluation materials and procedures used for evaluation and placement of handicapped children are selected and administered so as not to be racially or culturally discriminatory.

(2) The procedures that are developed by each education agency shall be established in accordance with the following criteria:

(a) evaluation and placement procedures are administered in accordance with the procedural safeguards in Rule 10.16.902; and

(b) the determination of a child's need for special education and related services is based on a comprehensive evaluation which may include, but is not limited to:

(i) an individual psychological examination;

(ii) relevant physical information;

(iii) appropriate achievement testing and evaluation of classwork;

(iv) direct observations in a variety of functioning environments;

(v) assessment of the social skills and emotional status; and

(vi) interviews with, or information provided by, important and involved persons in the child's life.

(c) tests and other materials and procedures used for evaluating a child's abilities have been properly and professionally evaluated for the specific purposes for which they are to be used and meet the test of reasonableness in the opinion of competent professional personnel.

(d) the evaluation materials and procedures are provided and administered in the child's native language or mode of communication, unless it clearly is not feasible to do so.

(e) steps are taken to assure that a test administered to a student with a sensory, motor, speech, hearing, visual or other communicative disability or to a student who is bilingual, accurately reflects the child's ability in the area tested and not the child's impaired communication skill or the fact that the child is not skilled in English.

(f) whenever individual intelligence tests are administered, steps are taken to assure that judgments about the child's placement are not based solely on an I.Q. score, that a behavioral description and an interpretation

of the child's functioning on the various subtests are made by the qualified examiner who administered the test, and that the results of the evaluation are expressed in terms of the child's strengths, weaknesses and needs.

(g) the cultural differences of a child are taken into account in interpreting the assessment information.

(h) no single test, or type of test or procedure, is used as the sole criterion for determining an appropriate educational program for the child.

(i) the interpretation of the assessment information and the subsequent determination of the educational placement of the child is made by a team or group of persons.

(j) all relevant information with regard to the functional abilities of the child is utilized in the placement determination.

10.16.1106. Protection from Labeling Process

Child study teams shall assign a diagnostic label for each handicapped child following comprehensive evaluation. The label shall relate to various handicapping conditions defined in the manual. The diagnostic label is to be used for reports required by the Office of Public Instruction. Education agencies should not refer to students, teachers or rooms by diagnostic labels as such practices do not facilitate treatment and are often harmful to the individual labeled. Parents shall be informed of the diagnostic category as it relates to the handicapping condition of their child.

10.16.903. Written Notification Before Change in Education Placement/Program

(1) Within 30 days after completion of the child study team evaluation, a designated school district official shall inform the parent in writing, orally or by other appropriate mode that a change in the educational status of the child is proposed or that a requested change in placement is denied. Notification shall be made by personal conference, if it is possible for parents to come in, or else by certified mail. Written notification must be written in language understandable to the general public and provided in the native language of the parents. The child should be informed of, and helped to understand, if capable, the educational change. The parent must be invited to participate in the conference for developing the individualized education plan if the child is to be placed in a special education program. (See Rule 10.16.1207.)

(2) The form to be used to notify parents of the proposed change in the educational placement/program or to deny initiation of a requested program should be included.

(3) The notice of placement/program change should include the following:

(a) a description of the proposed educational program, the reasons why the proposed placement is deemed appropriate, or the reasons why the requested program is being denied and the reasons why it is the least restrictive program setting appropriate for the education of the child;

(b) a description of any tests, reports or evaluation procedures on which the proposed education placement is based or the requested educational program is being denied;

(c) a statement that the school reports, files and records pertaining to the child shall be available for inspection to the parents or their designee as indicated in writing (copies of such records may be obtained on request at no more than the actual cost of such copying);

(d) a description of the right of the parent to obtain a hearing if there are objections to the proposed action or nonaction. This notice should emphasize that the parent need not accept the proposed decision to change or not to change the status of the child when there is disagreement with the proposed alternative program;

(e) a detailed description of the procedures the parent should use to appeal a hearing decision; and

(f) an explanation stating that if the proposed action is rejected by the parent, the child shall continue, temporarily, in the current placement unless the current placement endangers the health or safety of the child or other children and/or substantially disrupts the education programs of other children. In this instance, the local education agency shall notify the parent of the interim change in writing by certified mail in a notice which specifies:

(i) the manner in which the health and safety of the child or other children is endangered, or the manner in which the educational program of other children is being disrupted;

(ii) the nature, duration and location of the interim placement, which must not exceed 15 school days;

(iii) the fact that the interim placement may be extended beyond 15 school days only on the decision of the trustees and that in no case may it extend beyond the duration of the entire due process procedures; and

(iv) the name of the person responsible for the interim placement and the date the interim placement will begin.

(g) an explanation that in the case where a complaint involves a child who is applying for initial admission to a public school, the child shall, with the consent of the parents, be placed in the public school program until the completion of due process proceedings. In this case, the local education agency shall notify the parents of the type

of interim placement in writing by certified mail using procedures established and written in item (f) immediately preceding this item in a notice which specifies:

- (i) the nature, duration and location of the interim placement, which must not exceed 15 school days;
- (ii) the fact that interim placement may be extended beyond 15 school days only on the decision of the hearing officer and that in no case may it extend beyond the duration of the entire due process procedures; and
- (iii) the name of the person responsible for the interim placement and the date the interim placement will begin.

10.16.904. Placement/Program Maintained

A child shall continue, temporarily, in the current placement wherever parents do not give written consent for a change in their child's educational program, except in a case where the current placement endangers the health or safety of the child or other children and/or substantially disrupts the educational programs of other children or, if applying for initial admission to a public school, a child shall, with the consent of parents or guardian, be placed in the public school program until all such legal proceedings have been completed. In this case, Rules 10.16.903, Items (f) and (f) shall be followed.

10.16.1103. Review/Reevaluation

Each education agency shall set forth procedures to assure:

- (1) that each child's individualized education program is reviewed and revised periodically, but not less than annually; and
- (2) that a comprehensive educational reevaluation of the child, which is based on Rules 10.16.1101 and 10.16.1102 of this chapter, is conducted whenever conditions warrant, but no less than once every three years. A comprehensive educational evaluation will be made at the request of the child's parents or teachers.

IX. COMPREHENSIVE SYSTEM OF PERSONNEL DEVELOPMENT (CSPD)

A. Input and Implementation

The Montana Comprehensive System of Personnel Development is a broad-based effort involving the assessment of manpower and training needs of local programs and state-operated programs delivering special education and related services to handicapped children and youth. The results of needs assessment activities carried out by all agencies and programs involved in the system are shared across agencies and programs to plan and carry out preservice and inservice training activities.

This cooperative endeavor involves the Office of Public Instruction, institutions of higher education, local school districts, state-operated programs, community-based service providers, professional organizations and parent organizations. New service agreements among state agencies are continually being negotiated and signed as a means for the better coordination and effective delivery of services to handicapped children and youth. In addition, program staff at the local level are strengthening service delivery through cooperative activities in handicapped child identification and screening, referrals, program implementation and staff training.

The specific procedures and activities which will guide the continued development of Montana's CSPD during Fiscal Year 1984-86 are described in subsequent sections of this part. There will be an annual updating of the needs assessment and program implementation.

The implementation of a comprehensive system of personnel development involves bringing together numerous programs and personnel with the recognition that individual components of the system represent different levels of development. A series of cooperative activities has been implemented within the state which provide a structure and format for greater input and direct involvement of interested persons in inservice training, preservice training and dissemination activities.

1. Montana Special Education Advisory Panel - This group meets quarterly with SEA staff to provide input to the administration of special education programs in Montana. It includes representatives from school districts, parents, handicapped individuals, state agencies, institutions of higher education, private agencies and professional organizations.
2. Committee on Cooperative Manpower Planning: Education of the Handicapped - This group meets as an interagency and interorganizational committee for the primary objective to develop a cooperative intrastate plan to facilitate the preparation of personnel to meet the needs of handicapped children and youth. It includes representatives from school districts, institutions of higher education, state agencies, Montana Special Education Advisory Panel and professional/parent organizations with a particular interest in preservice and inservice training.
3. Consortium of Higher Education/Special Education - This group consists of representatives from Montana colleges and universities (public and private) and the Department of Special Services, Office of Public Instruction, to plan and

carry out activities designed to increase the effectiveness and efficiency of personnel preparation programs in the state. It includes representatives from the University of Montana, Montana State University, Eastern Montana College, Western Montana College, Northern Montana College and Carroll College.

4. Policy Board of the Montana University Affiliated Program Satellite (MUAPS) - This group consists of representatives from major components in the state's service delivery system for the developmentally disabled. The major goal of the MUAPS is to support and enhance the state's service delivery system for the developmentally disabled and work to advance the capabilities of that system through the accomplishment of programs of exemplary service, personnel preparation and resource development. It includes representatives from the University of Montana, Eastern Montana College, Montana State University, Office of Public Instruction, Department of Social and Rehabilitation Services, Department of Institutions, Department of Health and Environmental Sciences, Developmental Disabilities Planning and Advisory Council and Developmental Disabilities/Montana Advocacy Project.

5. Interagency Committee for Handicapped Children - This group consists of state-level administrators who are responsible for administering state programs involving handicapped children. It includes representatives from the Governor's Office, the Office of Public Instruction, Department of Health and Environmental Sciences, Department of Social and Rehabilitation Services, Department of Institutions, Department of Justice and Montana School for the Deaf and Blind.

These groups meet on a regular basis to exchange information and review the status of current issues and activities affecting handicapped children. Draft copies of the Annual Program Plan are distributed to members of these groups for their review, and comments are solicited for inclusion in the final document.

B. Needs Assessment

A statewide survey of inservice training needs of personnel working with handicapped children and youth was conducted during December 1982. (See survey results at end of this section.)

A questionnaire was mailed to 82 persons to solicit their views on the need for inservice training in 20 areas and who should be responsible for providing the training. (See instrument at end of this section.) Special education

directors, Advisory Panel members, training institution personnel, professional and parent organization personnel and SEA staff responded to the survey.

Priority areas for training, identified by the survey, included assessment, identification and service delivery options for emotionally disturbed students and use of technology for computer assisted instruction and computer assisted management. These areas were rated high by respondents from all categories. Local districts, cooperatives, training institutions and the Office of Public Instruction were all seen as having some responsibility for the training in these areas. The Office of Public Instruction and institutions of higher education were given major responsibility for providing training in these critical areas.

Other areas of training which received an average needs rating by all groups included:

1. Special education laws, rules and policies
2. Special education process, referral to placement
3. Method of assessment/criteria for identification
 - Minority populations
 - Learning disabled
 - Multihandicapped
 - Early childhood
 - Vocational
4. Service delivery options
 - Multihandicapped
5. Instructional methods and materials
 - Learning disabled
 - Multihandicapped
 - Emotionally disturbed

The one area which received an average needs rating of little to very little was parent training. While local districts and the Office of Public Instruction were seen as being most responsible for training, a majority of the respondents gave no response to this question.

The number of personnel requiring retraining during 1984-86 is estimated at 1,500. This includes professional staff and special education aides who currently meet state standards for certification or licensure and employment but require retraining to maintain or increase their knowledge and skills in the content areas identified by the needs assessment.

Inservice training workshops are designed to extend the current level of understanding and performance of participants. Three types of training are available.

1. Awareness Training - This type of training focuses primarily on attitudinal change. Included in this category are training sessions which include introductory information such as informing school personnel and the public about specific content areas and sensitizing the audience about the needs and skills of handicapped children.

2. Knowledge Training - This type of training focuses primarily on cognitive change. In contrast to awareness training, knowledge training is of a longer duration, the information is more detailed and the participants usually have some prior experience with the training content.

3. Skill Development Training - This type of training usually follows awareness or knowledge training. The training focuses on producing behavioral change in the participant through hands-on experiences, role playing or simulations.

The personnel to be trained include:

Regular Education Teachers	Speech Therapists/Audiologists
Special Education Teachers	Vocational Educators
Administrators	Supervisors
Psychologists	Teacher Aides
Physical Educators	Parents/Surrogates
Guidance Counselors	Volunteers

The planning and delivery of inservice training to personnel working with handicapped children and youth is being carried out through the cooperative efforts of the Office of Public Instruction, local school districts, special education cooperatives, units of Montana higher education, Montana University Affiliated Program, Department of Institutions, Department of Justice, Department of Social and Rehabilitation Services, Department of Health and Environmental Sciences and other public and private organizations. The coordination of training resources to address the identified training needs is currently underway at both the state and local level. The results of this survey will be used to further these efforts.

The need for trained personnel varies across the state with the greatest general needs existing in the large number of rural isolated school communities. These schools, having less than four teachers, are continuing to experience difficulty in recruiting and maintaining staff who are trained to provide services to handicapped students. School district located in larger population centers are better able to attract trained special education personnel, but are experiencing difficulty in meeting the demand for inservice training now coming from the regular classroom teachers working with mildly and moderately handicapped students.

C. Inservice

1. Geographic Coverage

Inservice training activities are carried out in locations throughout the state. The larger school districts often invite personnel from nearby smaller districts to participate in inservice training activities. Inservice training sponsored by special education cooperatives typically involves personnel from ten to fifteen rural school districts. In addition, regional and statewide inservice workshops sponsored by the SEA are held in locations to enable participants from local school districts to attend with minimal travel. (Typical training sites are indicated on the map at the end of this section.)

2. Staff Training Source

Inservice training is carried out through the use of qualified staff members of LEAs, regional cooperatives and SEA specialists from the Department of Special Services and other programs within the Office of Public Instruction, e.g., math, reading, vocational education, physical education. In addition to the trainers from LEAs and the SEA, extensive use is made of Montana university and college faculty as well as training consultants from out of state colleges and training organizations. A training resource directory has been developed by the SEA for use by local program administrators.

3. Funding Sources

The funding sources for inservice training activities include local, state and federal funds.

4. Time Frame for Inservice Programs

Inservice training activities occur throughout the year in Montana. While local school districts schedule inservice programs to best meet local needs, the majority of the training workshops occur during early fall and spring. Workshops are also held in conjunction with the Montana Education Association and the Montana Council of Exceptional Children Conference in October.

Workshops of one-, two- or three-week duration are held on college and university campuses each summer in selected areas, e.g., severely handicapped, adaptive physical education, to enable personnel to receive intensive skill training as a follow up to short-term training provided during the academic year.

5. Incentives in Inservice Programs

The use of incentives in inservice programs encourages local school district personnel and others to increase their knowledge and skills and to share their experience across local programs. Incentives include release time, college and/or recertification credit and reimbursement of training expenses. The specific incentives associated with individual inservice workshops are determined as part of the planning process and vary according to the type of workshop. Single district workshops typically include reimbursement of travel, meals and lodging costs in addition to release time and college and/or recertification credit.

In addition to the incentives described above, additional incentives in the form of honorariums for training consultants are paid to qualified persons accepting the responsibility for providing training. This may include local district personnel who travel to other parts of the state to conduct inservice training.

6. Involvement of Local Staff

Inservice programs are planned and implemented with extensive involvement of local staff. In cases where local staff are not available to serve as primary trainers for other staff members or local staff are unable to locate qualified trainers for specific workshops, training resources and technical assistance is provided to local school districts by the Staff Development Specialist, Department of Special Services, Office of Public Instruction.

7. Innovative Practices

The inservice training activities conducted at a local, regional or statewide level make use of innovative practices which have been found to be effective in other programs. Training materials and procedures as well as programmatic materials and procedures are often adopted or adapted for use by local district personnel.

D. Preservice

The structure for personnel planning which addresses preservice needs in Montana includes the Board of Regents, the Office of the Commissioner of Higher Education, the Board of Public Education and the Office of Public Instruction.

The development of new or modified preservice training programs to respond to the emerging needs of Montana education is an ongoing cooperative process. Teacher education program reviews and needs assessments are carried out annually by the Office of the Commissioner of Higher Education and the Office of Public Instruction to identify needed areas of preservice training. The relatively small number of preservice training programs which exist in the state are very interdependent and all are of high priority. The preservice training programs for personnel working with handicapped students are included in this section.

The Consortium of Institutions of Higher Education and Special Education consists of representatives from all Montana institutions of higher education offering special education and related area training programs. The consortium serves as an excellent vehicle for providing the leadership needed to develop quality training programs including multi-campus cooperative programs.

Program standards for teacher education have been adopted by the Board of Regents and the Board of Public Education which require that all teachers in training have as part of their professional education coursework that is designed to develop:

Section 48-2.12(3)-S12060

- (i) Knowledge of the process of human growth, development, and learning, and the ability to apply this knowledge to the teaching of all students, including atypical children.

These standards reflect Montana's commitment to provide a free appropriate public education to all handicapped children in the least restrictive environment. It is important therefore, that all teacher trainers be knowledgeable of the provisions contained in P. L. 94-142 and Montana special education statutes and regulations.

Preservice training in special education and related fields is provided by the Montana University System, three private colleges and three community colleges. The Montana University System consists of six institutions of higher learning under the direction of the Board of Regents of Higher Education. Seven appointed members and three ex-officio members, the State Superintendent of Public Instruction, the Commissioner of Higher Education and the Governor constitute the Board of Regents.

The six components of the Montana University System are Montana State University, Bozeman; University of Montana, Missoula; Montana College of Mineral Science and Technology, Butte; Western Montana College, Dillon; Eastern Montana College, Billings; and Northern Montana College, Havre. Private colleges include College of Great Falls, Great Falls; Carroll College, Helena; and Rocky Mountain College, Billings. Community colleges are Flathead Community College, Kalispell; Dawson Community College, Glendive; and Miles Community College, Miles City.

The Board of Regents has designated Eastern Montana College as the institution with major responsibility for preservice training in special education. Special education degree programs at the undergraduate and graduate level are offered at Eastern for resident students as well as available to students from other campuses seeking a teaching endorsement in special education.

Preservice training programs in special education and related areas offered within the state of Montana include:

Eastern Montana College

Elementary Education	BA	MA
Secondary Education	BA	
Special Education	BA	MA
Psychology	BA	
Rehabilitation & Related Services	BA	
Rehabilitation Counseling		MA
Early Childhood	BA	
Guidance and Counseling		MA

Montana State University

Adaptive Physical Education	BA	MA	
Early Childhood	BA		
Guidance and Counseling	BA		
Elementary Education	BA	MA	PHD
Secondary Education	BA	MA	PHD
Psychology	BA	MA	
Speech	BA		

Northern Montana College

Elementary Education	BA	MA
Secondary Education	BA	
Vocational-Technical Ed	BA	MA

University of Montana

Elementary Education	BA	MA	PHD
Secondary Education	BA	MA	PHD
Speech Pathology & Audiology	BA	MA	
Psychology	BA	MA	PHD
Physical Therapy	BA		
Guidance and Counseling	BA	MA	

Western Montana College

Elementary Education	BA	MA
Secondary Education	BA	MA

Carroll College

Elementary Education (Special Education)*	BA
Secondary Education (Special Education)*	BA
Psychology	BA
*Endorsement Area	

College of Great Falls

Elementary Education (Special Education)*	BA
Secondary Education (Special Education)*	BA
*Endorsement Area	

Rocky Mountain College

Elementary Education	BA
Secondary Education	BA
Psychology	BA

Dawson Community College

Speech Pathology & Audiology	Associate of Arts or
Education	Pre-Professional
Human Services	
Psychology	

Flathead Valley Community College

Education	Associate of Arts or
Psychology	Pre-Professional
Human Service Technology	

Miles Community College

Elementary Education
 Secondary Education
 Physical Therapy
 Social Work

Associate of Arts
 or
 Pre-Professional

E. Dissemination and Adoption

The Office of Public Instruction uses a variety of procedures for acquiring, reviewing and disseminating current information on promising practices to education personnel and other interested agencies.

An extensive collection of educational materials is maintained in the Office of Public Instruction. Materials include print and non-print information derived from educational research, demonstration projects and position papers from educational leaders. A growing library of microcomputer software is also maintained for review by interested educators.

The Office of Public Instruction also has service agreements with Dialog (Lockheed), BRS (Bibliographic Resource Services) and SpecialNet (National Association of State Directors of Special Education). On-line searches of these computerized data bases are conducted by the SEA on a fee-for-service basis. Full document delivery of ERIC microfiche and photocopies of journal articles are provided as part of this service. In addition to search services of nationwide data bases, the SEA has developed an in-house computerized file of documents, programs, practices and human resources in all areas of education in Montana. Special education staff from throughout the state have participated in linker training programs provided through Montana's Dissemination Capacity Building Program funded by NIE, and these persons regularly channel resource requests through the SEA.

Each year, the SEA schedules a week-long educational fair which is primarily made up of NDN project personnel from across the United States. This fair provides an opportunity for Montana educators to exchange information on current promising practices with exemplary program staff.

The awareness training provided during the fair is followed up by districts with additional training for Montana educators who are interested in adopting or adapting selected innovative programs.

F. Technical Assistance

The Office of Public Instruction provides technical assistance to local school districts as part of scheduled local program reviews in response to individual district requests for specific assistance and through meetings, conferences and workshops scheduled throughout the year. A staff development unit is also available to assist local districts with planning and delivering inservice training of teachers and administrators.

The office continues to seek new applications of technology to link the resources of the Office of Public Instruction with requests for technical assistance from the field. These efforts are proving to be very successful. Telecommunications and microcomputers are used with great frequency to provide efficient and cost effective assistance to help solve local educational problems.

Technical assistance to the Office of Public Instruction is provided through arrangements with regional and national projects. Resources from Intermountain Plains Regional Resource Center, Logan Utah; Mountain Plains Deaf-Blind Resource Center, Denver, Colorado; northwest Regional Educational Laboratory, Portland, Oregon; and Project BEST are often used to provide the required technical assistance.

Needs Assessment Results

17. TECHNOLOGICAL ADVANCES: COMPUTER ASSISTED INSTRUCTION

Rated Need For Inservice Training

			3.37	
very little	little	some		very much
(1)	(2)	(3)		(4)

Locus Of Responsibility For Training

<u>Entity</u>	<u>Number and Percentage of All Responses</u>	
	N	%
Local Districts	17	25
Cooperatives	13	19
Tr Institutions	32	47
Off of Pub Instr	47	69
no response	5	7

18. TECHNOLOGICAL ADVANCES: COMPUTER ASSISTED MANAGEMENT

Rated Need For Inservice Training

			3.24	
very little	little	some		very much
(1)	(2)	(3)		(4)

Locus Of Responsibility For Training

<u>Entity</u>	<u>Number and Percentage of All Responses</u>	
	N	%
Local Districts	15	22
Cooperatives	13	19
Tr Institutions	29	43
Off of Pub Instr	47	69
no response	7	10

5. ASSESSMENT/IDENTIFICATION: EMOTIONALLY DISTURBED

Rated Need For Inservice Training

		2.99	
very little (1)	little (2)	some (3)	very much (4)

Locus Of Responsibility For Training

<u>Entity</u>	<u>Number and Percentage of All Responses</u>	
	N	%
Local Districts	22	32
Cooperatives	14	21
Tr Institutions	34	50
Off of Pub Instr	32	47
no response	6	9

11. SERVICE DELIVERY OPTIONS: EMOTIONALLY DISTURBED

Rated Need For Inservice Training

		2.97	
very little (1)	little (2)	some (3)	very much (4)

Locus Of Responsibility For Training

<u>Entity</u>	<u>Number and Percentage of All Responses</u>	
	N	%
Local Districts	15	22
Cooperatives	15	22
Tr Institutions	27	40
Off of Pub Instr	40	59
no response	8	12

14. INSTRUCTIONAL METHODS & MATERIALS: EMOTIONALLY DISTURBED

Rated Need For Inservice Training

		2.97	
very little (1)	little (2)	some (3)	very much (4)

Locus Of Responsibility For Training

<u>Entity</u>	<u>Number and Percentage of All Responses</u>	
	N	%
Local Districts	17	25
Cooperatives	12	18
Tr Institutions	41	60
Off of Pub Instr	29	43
no response	7	10

4. ASSESSMENT/IDENTIFICATION: LEARNING DISABLED

Rated Need For Inservice Training

		2.66	
very little (1)	little (2)	some (3)	very much (4)

Locus Of Responsibility For Training

<u>Entity</u>	<u>Number and Percentage of All Responses</u>	
	N	%
Local Districts	28	41
Cooperatives	17	25
Tr Institutions	35	51
Off of Pub Instr	29	43
no response	8	12

13. INSTRUCTIONAL METHODS & MATERIALS: LEARNING DISABLED

Rated Need For Inservice Training

		2.65		
very little (1)	little (2)	some (3)	very much (4)	

Locus Of Responsibility For Training

Entity	Number and Percentage of All Responses	
	N	%
Local Districts	21	31
Cooperatives	14	21
Tr Institutions	38	56
Off of Pub Instr	22	32
no response	9	13

8. ASSESSMENT/IDENTIFICATION: VOCATIONAL

Rated Need For Inservice Training

		2.47		
very little (1)	little (2)	some (3)	very much (4)	

Locus Of Responsibility For Training

Entity	Number and Percentage of All Responses	
	N	%
Local Districts	17	25
Cooperatives	11	16
Tr Institutions	28	41
Off of Pub Instr	29	43
no response	12	18

7. ASSESSMENT/IDENTIFICATION: EARLY CHILDHOOD

Rated Need For Inservice Training

	2.40			
very little (1)	little (2)	some (3)	very much (4)	

Locus Of Responsibility For Training

<u>Entity</u>	<u>Number and Percentage of All Responses</u>	
	N	%
Local Districts	21	31
Cooperatives	10	15
Tr Institutions	34	50
Off of Pub Instr	18	26
no response	10	15

15. INSTRUCTIONAL METHODS & MATERIALS: MULTIHANDICAPPED

Rated Need For Inservice Training

	2.34			
very little (1)	little (2)	some (3)	very much (4)	

Locus Of Responsibility For Training

<u>Entity</u>	<u>Number and Percentage of All Responses</u>	
	N	%
Local Districts	16	24
Cooperatives	9	13
Tr Institutions	39	57
Off of Pub Instr	23	34
no response	12	18

1. SPECIAL EDUCATION LAWS, RULES AND REGULATIONS, POLICIES

Rated Need For Inservice Training

	2.32			
very little (1)	little (2)	some (3)	very much (4)	

Locus Of Responsibility For Training

<u>Entity</u>	<u>Number and Percentage of All Responses</u>	
	N	%
Local Districts	17	25
Cooperatives	15	22
Tr Institutions	15	22
Off of Pub Instr	45	66
no response	9	13

10. SERVICE DELIVERY OPTIONS: MULTIHANDICAPPED

Rated Need For Inservice Training

	2.25			
very little (1)	little (2)	some (3)	very much (4)	

Locus Of Responsibility For Training

<u>Entity</u>	<u>Number and Percentage of All Responses</u>	
	N	%
Local Districts	13	19
Cooperatives	11	16
Tr Institutions	23	34
Off of Pub Instr	34	50
no response	15	22

6. ASSESSMENT/IDENTIFICATION: MULTIHANDICAPPED

Rated Need For Inservice Training

	2.16		
very little (1)	little (2)	some (3)	very much (4)

Locus Of Responsibility For Training

<u>Entity</u>	<u>Number and Percentage of All Responses</u>	
	N	%
Local Districts	17	25
Cooperatives	7	10
Tr Institutions	32	47
Off of Pub Instr	26	38
no response	12	18

2. SPECIAL EDUCATION PROCESS, REFERRAL TO PLACEMENT

Rated Need For Inservice Training

	2.15		
very little (1)	little (2)	some (3)	very much (4)

Locus Of Responsibility For Training

<u>Entity</u>	<u>Number and Percentage of All Responses</u>	
	N	%
Local Districts	39	60
Cooperatives	22	34
Tr Institutions	13	20
Off of Pub Instr	30	46
no response	8	12

3. ASSESSMENT/IDENTIFICATION: MINORITY POPULATIONS

Rated Need For Inservice Training

	2.07			
very little (1)	little (2)	some (3)	very much (4)	

Locus Of Responsibility For Training

<u>Entity</u>	<u>Number and Percentage of All Responses</u>	
	N	%
Local Districts	17	25
Cooperatives	7	10
Tr Institutions	32	47
Off of Pub Instr	27	40
no response	13	19

20. PARENT TRAINING

Rated Need For Inservice Training

	1.16			
very little (1)	little (2)	some (3)	very much (4)	

Locus Of Responsibility For Training

<u>Entity</u>	<u>Number and Percentage of All Responses</u>	
	N	%
Local Districts	14	21
Cooperatives	6	9
Tr Institutions	8	12
Off of Pub Instr	14	21
no response	25	37

ADDITIONAL AREAS OF NEEDED INSERVICE TRAINING IDENTIFIED BY ONE OR
MORE RESPONDENTS

9. METHODS OF ASSESSMENT/IDENTIFICATION

Language Development
Developmentally Disabled

12. SERVICE DELIVERY OPTIONS

Delinquent, Socially Maladjusted, Chemically Dependent
Pre-school, Early Childhood
Secondary Resource Room

16. INSTRUCTIONAL METHODS AND MATERIALS

Developmentally Disabled
Pre-school

19. TECHNOLOGICAL ADVANCES

Evaluation Research on Computer Assisted Instruction

21. OTHER TRAINING

Counseling
Related Services
Extended School Year Programs
Behavior Management
Supervision
Expulsion and Suspension of Handicapped Students
Retention of Handicapped Students

Needs Assessment Survey



OFFICE OF PUBLIC INSTRUCTION

STATE CAPITOL
HELENA, MONTANA 59620
(406) 449-3095

Ed Argenbright
Superintendent

December 21, 1982

TO: Special Education Directors
Special Education Advisory Panel Members
Special Education Personnel Trainers (Higher Education)
Professional Organization Chairpersons
Parent Organization Chairpersons

FROM: Ron Lukenbill, Staff Development Specialist
Department of Special Services

RE: Inservice Training Needs Assessment

Please complete the enclosed questionnaire which will provide information to the Office of Public Instruction regarding statewide inservice training needs in the area of education of handicapped students. The results of this survey will be used to develop the CSPD section of the three-year state plan as required under Public Law 94-142.

Please return the questionnaire to the address on the back of the form by January 7, 1983. (Just put a stamp on the form and mail it in.)

If you have questions regarding the questionnaire, please call me at 1-800-332-3402 (education hot line) or 449-3693.

Thank you for your assistance.

RL:gsj

Enclosure

Special Education Inservice Needs Assessment

Return by January 7, 1983

Please check the category that best describes your position.

- (A) _____ Special Education Director
- (B) _____ Advisory Panel Member
- (C) _____ Training Institution Personnel
- (D) _____ Professional Organization
- (E) _____ Parent Organization
- (F) _____ SEA Staff

Indicate who you feel the responsible entity for the training should be. (check more than one if applicable)

Some	Very Much		Local Districts	Cooperative	Training Institutions	OPI
<input type="checkbox"/>	<input type="checkbox"/>	I. (1) Special Education Laws, Rules and Regulations; Policies	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	II. (2) Special Education Process, Referral to Placement	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		III. Methods of Assessment/Criteria for Identification				
<input type="checkbox"/>	<input type="checkbox"/>	(3) Minority Populations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	(4) Learning Disabled	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	(5) Emotionally Disturbed	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	(6) Multihandicapped	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	(7) Early Childhood	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	(8) Vocational	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	(9) Other, please specify _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		IV. Service Delivery Options				
<input type="checkbox"/>	<input type="checkbox"/>	(10) Multihandicapped	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	(11) Emotionally Disturbed	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	(12) Other, please specify _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		V. Instructional Methods and Materials				
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<input type="checkbox"/>	<input type="checkbox"/>	(14) Emotionally Disturbed	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	(15) Multihandicapped	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	(16) Other, please specify _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		VI. Technological Advances				
<input type="checkbox"/>	<input type="checkbox"/>	(17) Computer Assisted Instruction	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	(18) Computer Assisted Management	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	(19) Other, please specify _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		VII. Other, Please Specify				
<input type="checkbox"/>	<input type="checkbox"/>	(20) Parent Training, specify type _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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<input type="checkbox"/>	<input type="checkbox"/>	(22)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	(23)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments:

Training Sites Map

PARTICIPATION OF PRIVATE SCHOOL CHILDREN

A. Policy and Procedures

The state has policies which implement the requirements of federal law to the extent consistent with the number and location of handicapped children in the state who are enrolled in private elementary and secondary schools, and provision will be made for the participation of these children in the programs assisted or carried out under Part B by providing special education and related services for these children. The State of Montana, in cooperation with local educational agencies and nonpublic schools, will develop a process for identifying and locating all handicapped children attending the private schools in Montana. Additionally, the following Policy Statements address the requirements in 45 CFR 100b.651-663 of EDGAR.

1. Services to Nonpublic School Children (State Funds)

This policy relates specifically to the use of state equalization monies to provide services to children enrolled in nonpublic schools. The local school district may provide services to nonpublic school pupils if those pupils come onto the public school grounds for direct services. Screening services will be made available on the nonpublic school premises in order to find handicapped children that are attending the nonpublic school. Once a child is identified, then the services must be provided on the public school grounds and, if the child is identified by the screening/diagnostic process as being handicapped, then the parents of the child, not the nonpublic school, should bring the child to the public school and make a request for the services.

2. Contracted Services for Public School Children Placed in Nonpublic Schools

If a child is enrolled within the public schools and is in need of special education outside the district, that district may contract with a nonpublic school for the services provided that the services meet the needs of the child and that the nonpublic school providing the services follows the provisions established under the Special Education Rules and Regulations.

3. Services to Nonpublic School Children (Federal Funds)

Under the Education of the Handicapped Act, Part B, federal dollars may be used to hire staff to serve a nonpublic school at a level equal to the public school service. These monies can only flow through the local school district and all staff employed are employees and under the supervision of the local school district, not the nonpublic school. Programs operated for children in nonpublic schools must comply with Montana Special Education Rules and Regulations, EHA Part B, and EDGAR, section 100b.652.

4. The state education agency, through on-site monitoring visits and the provision of technical assistance, shall ensure that each local education agency:

(a) Provides special education and related services to meet the needs of private school children in its jurisdiction,

(b) Provides genuine opportunities to handicapped children in private schools to participate in special education and related services consistent with the number of those children and their needs, and

(c) Provides services in accordance with sections 100b.651-662 of 45 CFR (EDGAR).

5. EHA-B funds used to support the education of the handicapped children in private schools will not include the payment of salaries of private school personnel except for services performed outside their hours of duty and under public supervision and control; nor must these services include the use of equipment purchased with Part B funds, other than mobile or portable equipment on private school premises or the construction of private school facilities. Title to and administrative control over above mentioned portable or mobile equipment must be maintained by the state or local agency, which will also be responsible for monitoring the use, availability and removal of such equipment.

(a) Applicants under Part B may place equipment and supplies in a private school for the period of time of the project and shall ensure that it is placed in the private school only for the purposes of the project and can be removed without remodeling the private school facilities.

(b) Applicants under Part B shall remove equipment and supplies from a private school if the equipment and supplies are no longer needed for purposes of the project or removal is necessary to avoid use of the equipment or supplies for other than the project purposes.

6. Each state and local agency providing educational and related services to children enrolled in private schools will maintain administrative control and direction over these services.
7. The state education agency will ensure that the number and types of children who will participate in these programs and the types of services provided be made on a basis comparable to procedures of handicapped children in public schools.
8. Public school personnel may be made available in other than public school facilities only to the extent necessary to provide services required by handicapped children for whose needs those services were designed and only when those services are not normally provided by the private school.
9. Services may be provided to private school handicapped children through such arrangements as dual enrollment, educational radio and television and the provision of mobile educational services and equipment.
10. A local school district may provide services to private school handicapped children which are different from services to public school children if:
 - (a) The differences are necessary to meet the special needs of the private school handicapped children, and
 - (b) The special education and related services are comparable in quality, scope and opportunity for participation to those provided to public school children with needs of equal importance.
11. Programs and projects to be carried out in public and/or private facilities and involving joint participation by handicapped children enrolled in private programs and public schools will not include classes that are separated on a basis of school enrollment or children's religious affiliation if:
 - (a) classes are at the same site or
 - (b) classes include students enrolled in public schools and students enrolled in private schools.
12. Local education agencies will be accountable for all EHA-B expenditures and will ensure that:
 - (a) EHA-B funds will not be used for the construction of private school facilities,
 - (b) Records are kept to account for all equipment purchased with EHA-B monies,
 - (c) EHA-B funds will not directly benefit private schools,
 - (d) EHA-B funds will not be used to maintain the existing level of instruction in private schools and

- (e) EHA-B program funds shall be used to meet specific needs of students enrolled in private schools rather than:
- (i) the needs of a private school or
 - (ii) the general needs of the students enrolled in a private school.

B. Implementation Procedures

The procedures to be undertaken by Montana to assure participation of private school children will be as follows:

1. Local school districts which have private schools within their boundaries will provide statement of assurances relative to private schools when submitting projects under EHA Part B.
2. The state education agency will monitor public agencies regarding the access to services by the private schools regarding handicapped students' needs and access to services.
3. The state school law on compulsory attendance is as follows:

20-5-102, M.C.A., 1978. Compulsory Enrollment and Excuses

Any parent, guardian or other person who is responsible for the care of any child who is seven (7) years of age or older prior to the first day of school in any school fiscal year and has not yet reached his sixteenth birthday and who has not completed the work of the eighth (8th) grade, shall cause the child to be instructed in the program prescribed by the Board of Public Education pursuant to 20-7-111. Such parent, guardian or other person shall enroll the child in the school assigned by the trustees of the district within the first week of the school term or when he establishes residence in the district unless:

- (1) the child is enrolled in a private institution which provides instruction in the subjects prescribed by 20-7-111;
- (2) the child is enrolled in a school of another district or state under any of the tuition provisions of this Title;
- (3) the child is provided with supervised correspondence study or supervised home study under the transportation provisions of this Title;
- (4) the child is excused from enrollment in a school of the district when it is shown that his bodily or mental condition does not permit his attendance and the child cannot be instructed under the special education provisions of this Title; or

(5) the child is excused from compulsory school attendance upon a determination by a district judge that such attendance is not in the best interest of the child.

C. Consultation with Representative of Private School Students

1. All LEA applications under Part B to the SEA require consultation with appropriate representatives of students enrolled in private schools during all phases of the development and design of the application as outlined in section 100b.652 45 CFR including:
 - (a) which children will receive benefits under the project;
 - (b) how the children's needs will be identified;
 - (c) what benefits will be provided;
 - (d) how the benefits will be provided; and
 - (e) how the project will be evaluated.
2. An applicant agency for Part B funds must consult with private school representatives before any decision is made affecting the opportunities of students in the project. The applicant must, therefore, allow a genuine opportunity for consultation regarding the Part B application.

D. Needs, Number of Students, Types of Services

1. All applicants for Part B funds must assure the SEA that the following matters are determined on a basis comparable to that used when providing for the participation of public school students:
 - (a) the needs of students enrolled in private schools;
 - (b) the number of those students who will participate in the project, and
 - (c) the benefits that the applicant will provide under the program to those students.
2. All program benefits afforded by an applicant under Part B for students enrolled in private schools shall be comparable in quality, scope and opportunity for participation to those benefits as provided to public school children. Additionally, if applicants under Part B use program funds for public school students in a particular attendance area, or grade or age level, the applicant shall ensure equitable opportunities for participation by students enrolled in private schools who:
 - (a) have the same needs as the public school students to be served and
 - (b) are in that group, attendance area or age or grade level.

3. Subject to the required needs of private school children, an applicant under Part B shall spend the same average amount of program funds on a student enrolled in a private school who receives benefits under the program as a student enrolled in a public school who receives benefits under the program. An applicant under Part B shall spend a different average amount for students in private schools only if the average cost of meeting the needs of those students is different from the average cost of meeting the needs of students in private schools.

E. Information in an Application Under Part B

The SEA requires the following information from applicants under EHA Part B:

1. a description of how the applicant will meet the federal requirements for participation of students enrolled in private school;
2. the number of students enrolled in private schools who have been identified as eligible to benefits under the program;
3. the number of students enrolled in private schools who will receive benefits under the program;
4. the basis the applicant used to select the students;
5. the manner and extent to which the applicant complied with section 100b.652 (consultation) 45 CFR;
6. the places and times that the students will receive benefits under the program; and
7. the differences, if any, between the program benefits the applicant will provide to public and private school students and the reasons for the differences.

XI. PLACEMENT IN PRIVATE SCHOOLS

A. Policy and Procedures

1. School Laws of Montana, 1981 (Title 20, Chapter 7)

20-5-102. Compulsory Enrollment and Excuses

(1) Except as provided in subsection (2), any parent, guardian or other person who is responsible for the care of any child who is 7 years of age or older prior to the first day of school in any school fiscal year shall cause the child to be instructed in the program prescribed by the Board of Public Education pursuant to 20-7-111 until the later of the following dates:

(a) the child's 16th birthday;
 (b) the date of completion of the work of the 8th grade.

(2) Such parent, guardian or other person shall enroll the child in the school assigned by the trustees of the district within the first week of the school term or when he establishes residence in the district unless the child is:

(a) enrolled in a private institution which provides instruction in the program prescribed by the Board of Public Education pursuant to 20-7-111;

(b) enrolled in a school of another district or state under any of the tuition provisions of this title;

(c) provided with supervised correspondence study or supervised home study under the transportation provisions of this title;

(d) excused from enrollment in a school of the district when it is shown that his bodily or mental condition does not permit his attendance and the child cannot be instructed under the special education provisions of this title;

(e) excused from compulsory school attendance upon a determination by a district judge that such attendance is not in the best interest of the child; or

(f) excused by the board of trustees upon a determination that such attendance by a child who has attained the age of 16 is not in the best interest of the child and the school.

(3) The excuse provided for in subsection (2)(d) of this section shall be issued by the district superintendent or the county superintendent when there is no district superintendent employed by the district. Whenever an excuse is denied by the applicable official, an appeal of such decision may be made to the district court of the county within 10 days after the decision upon giving a bond in the amount set by the court to pay all costs of the appeal. The decision of the district court shall be final.

20-5-103. Compulsory Attendance and Excuses

(1) Except as provided in subsection (2), any parent, guardian or other person who is responsible for the care of any child who is 7 years of age or older prior to the first day of school in any school fiscal year shall cause the child to attend the school in which he is enrolled for the school term and each school day therein prescribed by the trustees of the district until the later of the following dates:

(a) the child's 16th birthday;

(b) the date of completion of the work of the 8th grade.

(2) The provisions of subsection (1) do not apply in the following cases:

(a) The child has been excused under one of the conditions specified in 20-5-102.

(b) The child is absent because of illness, bereavement or other reason prescribed by the policies of the trustees.

(c) The child has been suspended or expelled under the provisions of 20-5-202.

2. Administrative Rules of Montana

10.16.1310. Out-of-District Services

(1) If a school district is unable to provide services for its resident handicapped students or unable to provide services through cooperative services, the school district may have to use out-of-district placement. The decision to place a child out of district must be recommended by the resident district child study team and approved by the resident district board of trustees. Placement made independently of the public school by the parents and/or other agencies relieves the public school of all financial obligations.

(2) When a child is handicapped to such a degree that a totally controlled environment is needed, residential school placement may be essential. Room and board and tuition costs are considered allowable costs in the district's special education budget. The public school is only responsible for room and board and educational costs. Other services such as psychiatric therapy and/or medical treatment must be deleted from the special education costs and assumed by parents and/or other agencies. An out-of-district placement must be approved by the Superintendent of Public Instruction. (See Rule 10.16.2001(1).)

(3) A district must first make a reasonable attempt to secure and utilize in-state resources before out-of-state placement will be approved.

(4) It is the resident district's responsibility to convene the child study team and set the time and place for conducting a review of the child's needs and educational placement. The receiving district is responsible for providing program monitoring and assisting the resident district with conducting an annual review of the child's program and progress. The receiving district shall provide pertinent data regarding the child's program and progress to the resident district and parents.

(5) The resident district and receiving district should form a joint child study team to consider the evaluation data and explore program options.

(6) A cooperative staff may provide supportive services when such services are not available through the local district. Please refer to Rule 10.16.1204, Composition of a Core Child Study Team.

(7) The resident school district is required to budget for room and board costs (0555-Transportation) in its special education budget. Budget approval does not mean the school district has authorization to send a specific child out of district. Approval shall also be obtained from the school district or agency which is providing the services. Program evaluation is the responsibility of both the resident school district and the providing school district or agency.

(8) If a handicapped child is placed out of state, tuition charges are covered under Contracted Services 01-01-0280.

(9) It is the responsibility of the resident school district to ensure that an out-of-district living facility is an appropriately licensed facility. An inquiry should be made to the local social and rehabilitation services division to secure appropriate facilities. The local division can provide the school district with a list of homes which are licensed and/or procedures by which a home can be licensed. Payment schedules should follow rates set by social and rehabilitation services division. Any deviation from that schedule should be based on severity of handicap and shall receive concurrence from social and rehabilitation services and approval from the Superintendent of Public Instruction.

10.16.1311. Responsibilities for Out-of-District Services

(1) To ensure that the request for an out-of-district placement is appropriate and follows the special education rules and regulations, the following items must be addressed.

(2) The resident school district will:

(a) assure that all students considered for out-of-district placement shall be processed by a resident child study team and approved by the board of trustees;

(b) assure that the child study team, in recommending out-of-district placement, has:

(i) identified service options outside of the district;

(ii) outlined reasons why services cannot be provided by the resident district; and

(iii) specified date requested for placement.

(c) investigate placement options and assure that the selection of placement is in keeping with the least restrictive alternative;

(d) make transportation arrangements;

(e) specify criteria for the student's return to the resident district; and

(f) outline provisions for program monitoring and annual review.

(3) The receiving school district will:

(a) form a child study team to determine acceptance and whether appropriate services can be offered; and

(b) conduct periodical review and report results to the appropriate official of the resident district.

(4) The resident school district will conduct an annual review of each child placed out of district.

(5) Through the child study team, the resident school district will annually make recommendations for either continued out-of-district placement or termination.

(6) Based on the child study team reports, the resident school district will submit a recommendation to the Superintendent of Public Instruction for continued out-of-district placement.

3. Policy Statements

a) These guidelines have been developed to ensure that the placement/referral process for handicapped children placed in or referred to private schools/facilities by a state agency or local education agency must:

(1) conform with the Montana Laws and Administrative Rules and federal laws and regulations regarding the development of the individualized education program.

(2) conform to the laws (state and federal) regarding the no-cost provisions to parents; and

(3) meet Montana education standards.

b) Parents shall assume full financial responsibility for the child's education when the handicapped child has available a "free and appropriate education" in a public school or agency that is accessible to his/her home and the parents waive such opportunity.

c) Full due process procedures apply in the event that a parent contends that he/she has been forced, at his/her expense, to seek private schooling because an appropriate program does not exist and the responsible agency disagrees.

d) The Montana Office of Public Instruction shall assure that any handicapped child placed in a private school or facility by a public agency will have all the rights he/she would have if educated in a public school.

e) All private schools shall receive copies of the Montana Rules and Regulations. The initial distribution was made not later than September 1, 1977.

f) The responsibility for administering and supervising the placement of the handicapped person shall fall jointly with local education agencies and the state education agency.

g) Monitoring of private school placements will include periodic review of the individualized education plans and programs to assure that they are meeting the standards set by the Montana Rules and Regulations.

h) Private schools shall have the opportunity to participate in the development and revision of standards relating to special education in Montana.

i) Before a public agency places a handicapped child in, or refers a child to, a private school or facility, the agency shall initiate and conduct a meeting to develop an individualized education program for the child.

j) The public agency shall ensure that a representative of the private school facility attends the meeting. If the representative cannot attend, the agency shall use other methods to ensure participation by the private school or facility.

k) After a handicapped child enters a private school or facility, any meetings to review and revise the child's individualized program may be initiated and conducted by the private school or facility at the discretion of the public agency.

l) If the private school or facility initiates and conducts these meetings, the public agency shall ensure that the parents and an agency representative are involved in any decision and agree to any proposed changes in the program before those changes are implemented.

XII. RECOVERY OF FUNDS FOR MISCLASSIFIED CHILDREN

A. Recovery of Funds

The state education agency will require quarterly reports from the local education agencies using Part B monies for services to any child. The state education agency will randomly sample districts using Part B monies and will ascertain the eligibility of those students receiving funds. All steps will be taken by the local education agencies to assure the state education agency that a comprehensive evaluation is conducted by qualified personnel for all children.

B. Procedures for Implementation of Policy

1) The state education agency will initiate steps to retrieve funds made available for children erroneously classified as eligible to be counted on December 1.

2) The following describes the process for the retrieval of funds from local education agencies for misclassified children.

(a) The state education agency will notify local education agencies in writing of any misuse of funds regarding the misclassification of children.

(b) Local education agencies will respond in writing to the state education agency within 14 calendar days regarding the alleged misuse of funds.

(c) State education agency will determine whether payment by local education agencies is appropriate and if a violation has occurred.

(d) Local education agencies have the right to a formal hearing with the state education agency if so requested.

XIII. NOTICE AND OPPORTUNITY FOR HEARING ON LEA APPLICATION

A. Policy and Procedures

1) All Montana school districts will be provided with appropriate information, instructions and application forms in order to apply for their entitlements.

2) In the event the state education agency proposes to deny, in whole or part, any local education agency application for federal monies, the district shall be afforded notice of:

(a) The intent to deny the application and the reason for denial; and

(b) The district's right to request a hearing before the state education agency prior to final denial of the application.

3) The application by the local education agency may be denied, in whole or part, if the district fails to request a hearing.

4) An applicant under Part B may request a hearing if it alleges that any of the following actions by the state education agency violated a state or federal statute or regulation:

(a) Ordering, in accordance with a final state audit resolution determination, the repayment of misspent or misapplied federal funds; or

(b) Terminating further assistance for an approved project.

5) The procedures in EDGAR section 100b.401(c)(2)(7) apply to any request for a hearing under this section.

XIV. ANNUAL EVALUATION

A. Policy and Procedures

Two methods of evaluating local education agency programs include:

- (1) Local education agencies submitting annual updates of program narratives, and
- (2) State education agency on-site visits of local education agency programs.

1. Administrative Rules of Montana

10.16.1902. Program Narrative

(1) The program narrative must describe the total special education program within a given district and shall include the following components:

- (a) identification
 - (i) screening; and
 - (ii) number of students receiving services.
- (b) referral
 - (i) sources of student performance information; and
 - (ii) referral contact.
- (c) staffing
 - (i) pre-staffings;
 - (ii) child study team; and
 - (iii) staffing format.
- (d) personnel
 - (i) administration (special education);
 - (ii) teachers; and
 - (iii) supportive personnel.
- (e) evaluation
 - (i) student; and
 - (ii) program.
- (f) facilities
- (g) needs or deficiencies
- (h) additional information

(2) If a school district does not provide special education services and does not submit a budget, it still must screen its students annually for handicapping conditions. This process must be described in narrative form and submitted to the Superintendent of Public Instruction for approval.

10.16.1904. Evaluation

(1) All special education programs must be evaluated with both objective and subjective measures. Objective measures must be appropriate in terms of reliability and validity to assure reasonably accurate information. Subjective data also may be used to substantiate, clarify or enrich the evaluation results. The evaluation design must be concise and measure the degree to which the stated educational objectives have been accomplished. Results should be reported in a manner that is conducive to decision making by all education agencies and evaluators.

(2) Evaluation should be an ongoing process with reporting completed at least once a year. The district should make these reports available to the public on request.

2. Monitoring Activities

In addition to program narratives, state education agency on-site visits of local education agency programs will lend further evaluation information.

The Department of Special Services of the Office of Public Instruction has responsibility for evaluating the general effectiveness of special education programs and services throughout the state. Procedures for annual evaluation of each school district's special education programs and related services are in operation. Data to document the extent of services, type of professional personnel and numbers of children served (by type and severity of exceptionality) is collected twice each year. Annual program approval request procedures provide to districts the opportunity to modify programs already in operation, as well as to expand within approved ratios to various program models. Special education program reviews are scheduled to provide a formal on-site visit to each Montana school providing special education at least once within a three-year period.

XV. ADDITIONAL REQUIREMENTS

A. Responsibility of SEA for all Educational Programs

1. School Laws of Montana, 1981 (Title 20, Chapters 3, 7)

20-3-106. Supervision of Schools — Powers and Duties

The Superintendent of Public Instruction has the general supervision of the public schools and districts of the state, and he shall perform the following duties or acts in implementing and enforcing the provisions of this title:

(1) resolve any controversy resulting from the proration of costs by a joint board of trustees under the provisions of 20-3-362;

(2) issue, renew or deny teacher certification and emergency authorizations of employment;

(3) negotiate reciprocal tuition agreements with other states in accordance with the provisions of 20-5-314;

(4) serve on the teachers' retirement board in accordance with the provisions of 2-15-1010;

(5) approve or disapprove the orders of a high school boundary commission in accordance with the provisions of 20-6-311;

(6) approve or disapprove the opening or reopening of a school in accordance with the provisions of 20-6-502, 20-6-503, 20-6-504 or 20-6-505;

(7) approve or disapprove school isolation within the limitations prescribed by 20-9-302;

(8) generally supervise the school budgeting procedures prescribed by law in accordance with the provisions of 20-9-102 and prescribe the school budget format in accordance with the provisions of 20-9-103 and 20-9-506;

(9) establish a system of communication for calculating joint district revenues in accordance with the provisions of 20-9-151;

(10) approve or disapprove the adoption of a district's emergency budget resolution under the conditions prescribed in 20-9-163 and publish rules for an application for additional state aid for an emergency budget in accordance with the approval and disbursement provisions of 20-9-166;

(11) generally supervise the school financial administration provisions as prescribed by 20-9-201(2);

(12) prescribe and furnish the annual report forms to enable the districts to report to the county superintendent in accordance with the provisions of 20-9-213(5) and the annual report forms to enable the county superintendents to report to the Superintendent of Public Instruction in accordance with the provisions of 20-3-209;

(13) approve, disapprove or adjust an increase of the average number belonging (ANB) in accordance with the provisions of 20-9-313 and 20-9-314;

(14) distribute state equalization aid in support of the foundation program in accordance with the provisions of 20-9-342, 20-9-346 and 20-9-347;

(15) estimate the statewide equalization level for the foundation program in accordance with the provisions of 20-9-348;

(16) distribute state impact aid in accordance with the provisions of 20-9-304;

(17) provide for the uniform and equal provision of transportation by performing the duties prescribed by the provisions of 20-10-112;

(18) approve or disapprove an adult education program for which a district proposed to levy a tax in accordance with the provisions of 20-7-705;

(19) request, accept, deposit and expend federal moneys in accordance with the provisions of 20-9-603;

(20) authorize the use of federal moneys for the support of an interlocal cooperative agreement in accordance with the provisions of 20-9-703 and 20-9-704;

(21) prescribe the form and contents of and approve or disapprove interstate contracts in accordance with the provisions of 20-9-705;

(22) approve or disapprove the conduct of school on a Saturday or on pupil-instruction-related days in accordance with the provisions of 20-1-303 and 20-1-304;

(23) recommend standards of accreditation for all schools to the Board of Public Education and evaluate compliance with such standards and recommend accreditation status of every school to the Board of Public Education in accordance with the provisions of 20-7-101 and 20-7-102;

(24) collect and maintain a file of curriculum guides and assist schools with instructional programs in accordance with the provisions of 20-7-113 and 20-7-114;

(25) establish and maintain a library of visual, aural and other educational media in accordance with the provisions of 20-7-201;

(26) license textbook dealers and initiate prosecution of textbook dealers violating the law in accordance with the provisions of the textbooks part of this title;

(27) as the governing agent and executive officer of the state of Montana for vocational education, adopt the policies prescribed by and in accordance with the provisions of 20-7-301;

(28) consider applications for the designation of a postsecondary vocational-technical center in accordance with the provisions of 20-7-311;

(29) establish a fund for the handling of postsecondary vocational-technical center fees in accordance with the provisions of 20-7-333;

(30) supervise and coordinate the conduct of special education in the state in accordance with the provisions of 20-7-403;

(31) administer the traffic education program in accordance with the provisions of 20-7-502;

(32) administer the school food services program in accordance with the provisions of 20-10-201, 20-10-202 and 20-10-203;

(33) review school building plans and specifications in accordance with the provisions of 20-6-622;

(34) prescribe the method of identification and signals to be used by school safety patrols in accordance with the provisions of 20-1-408; and

(35) perform any other duty prescribed from time to time by this title, any other act of the legislature or the policies of the Board of Public Education.

20-7-403. Duties of Superintendent of Public Instruction

The Superintendent of Public Instruction shall supervise and coordinate the conduct of special education in the state by:

(1) recommending to the Board of Public Education adoption of those policies necessary to establish a planned and coordinated program of special education in the state;

(2) administering the policies adopted by the Board of Public Education;

(3) certifying special education teachers on the basis of the special qualifications for such teachers as prescribed by the Board of Public Education;

(4) establishing procedures to be used by school district personnel in identifying handicapped children;

(5) recommending to districts the type of special education class or program needed to serve the handicapped children of the districts and preparing appropriate guides for developing individual education programs;

(6) seeking for local districts appropriate interdisciplinary assistance from public and private agencies in diagnosing the special education needs of children, in planning programs and in admitting and discharging children from such programs;

(7) assisting local school districts, institutions and other agencies in developing full-service programs for all handicapped children;

(8) approving, as they are proposed and annually thereafter, those special education classes or programs which comply with the laws of the state of Montana, policies of the Board of Public Education and the regulations of the Superintendent of Public Instruction;

(9) providing technical assistance to district superintendents, principals, teachers and trustees;

(10) conducting conferences, offering advice and otherwise cooperating with parents and other interested persons;

(11) acting as the coordinating agency with federal agencies, other state agencies, political subdivisions of the state and private bodies on matters concerning special education, reserving to the other agencies and political subdivisions their full responsibilities for other aspects of the care of children needing special education;

(12) administering regional special education services for children in need of special education in accordance with policies of the Board of Public Education; and

(13) contracting for the delivery of audiological services to those children allowed by Montana law in accordance with policies of the Board of Public Education.

2. Administrative Rules of Montana

10.16.102. The Approval of Programs

(1) Authority for approval and disapproval of programs is given to the Superintendent of Public Instruction. Programs must be in compliance with the laws of the state of Montana, Board of Public Education policies and regulations of the Superintendent of Public Instruction.

(2) Trustees of local school districts cannot operate any special education program without approval from the Superintendent of Public Instruction.

(3) In the event that special circumstances exist which prohibit a local district from following the regulations of the Superintendent of Public Instruction, a special request must be sent to, and approved by, the Superintendent of Public Instruction prior to implementation.

3. Policy Statement

The Office of Public Instruction has the responsibility to ensure compliance of institution educational programs, including on-site monitoring. In addition, educational standards have been jointly developed by the Office of Public Instruction, the Department of Institutions and representatives of the institutional facilities. These standards, in addition to fully detailing educational standards applicable to institutional facilities, delineate the monitoring role of the Department of Special Services of the Office of Public Instruction.

B. State Education Agency Monitoring Procedures

1. Monitoring and Evaluation Activities

The Department of Special Services has a comprehensive on-site monitoring process to ensure compliance with all applicable statutes, regulations, state plans and applications. The process also provides technical assistance to public agencies to help them meet the needs

of all handicapped children. Copies of the monitoring forms used in this process are included at the end of this section.

Approximately one-third of all budgeted special education programs are visited annually. In addition, a sample of non-budgeted school districts and selected nonpublic school agencies will be monitored. In this way, every program within the state can be monitored on a three-year cycle.

Prior to the conduct of on-site visits, the public agencies are contacted by telephone and are sent a descriptive letter. The letter provides information regarding the purpose, intent and procedures of the monitoring visit. Specific areas of program compliance are also listed.

The basic monitoring process is:

(a) Local agencies are notified of the date of the on-site visit and given basic logistical information at least two weeks prior to the visit.

(b) Follow-up calls are made to work out the details of the monitoring process, e.g., location of records, transportation needs, location and scope of existing programs, etc.

(c) Upon the arrival of the monitoring team an entire interview is conducted with the administrator of the local agencies to explain the process and finalize specific team assignments.

(d) Collection of monitoring data is obtained by two basic procedures--interviewing and personal inspection. Interviews are scheduled with:

- the chief administrative officer of the agency
- all school administrators who have special education duties
- all school administrators who have special education services within their school
- all special education direct service and support staff
- a sample of regular education teachers within each building
- a sample of parents and handicapped children receiving services

Samples of forms used for data collection for each of the above are included at the end of this section.

In addition to the basic interviewing process, direct observation is made of:

- all or a representative sample (depending upon the size of the agency) of the special education records

- all facilities utilized for the delivery of special education services and a sample of regular education facilities
- materials and supplies dedicated to special education students and those available from the general program
- classroom observation of selected classes to evaluate the effectiveness of IEP implementation

(e) An exit interview is conducted with the administrator responsible for the provision of special education services. At that time, any areas of concern (e.g., compliance) are addressed. Specific remedial actions are prescribed and arrangements for technical assistance are discussed.

(f) A written report of the results of the monitoring visit is sent to the chief administrator of the agency within three weeks. The report includes specific corrective actions and time lines when appropriate. A general summary of program effectiveness is also included. Follow-up visits may be scheduled.

2. Compliance Procedures for Allegations of Substantive Actions

Montana SEA has adopted procedures for reviewing, investigating and acting on allegations of substance concerning actions taken by a public agency that are contrary to this Act.

The position designated as responsible for implementing these requirements is that of Compliance Specialist, Department of Special Services.

Upon receipt of an alleged compliance violation, the allegation is reviewed to determine if the allegation does in fact involve a compliance issue. If it does, the agency so charged is notified as to the specifics of the complaint and required to respond to the charges, in writing, within 21 days. (Additional contact with the complainant may also be necessary to clarify the exact nature and facts of the allegation.) Once the agency response is received, it is reviewed to determine adequacy. On-site visitations may then be scheduled to further investigate the charges and to initiate negotiation for resolution of differences.

Following the collection of information from the investigation, a report is written with copies sent to the agency charged and the complainant. The report shall contain the original charges, findings of fact and specific

remedial actions (if any) to be completed by the agency, including the time lines. In accordance with the time lines, the SEA has adopted the following:

(a) within 60 calendar days after receipt of a complaint, if necessary, the SEA will conduct an independent on-site investigation, and within the 60 days will resolve the complaint;

(b) any extension of the time limit under (a) above will be afforded only if exceptional circumstances exist with respect to a particular complaint; and

(c) the SEA recognizes the right of any party to request the U.S. Secretary of Education to review the final decision of the state.

At this time, arrangements will be made to provide the agency with needed consultation and technical assistance to alleviate any compliance problems found.

Documentation that remedial action required has been implemented is outlined and time limits established.

If, at the end of the prescribed time period, the remedial actions have not been implemented, sanctions will be imposed. The sequence of sanctions will be:

(a) notification to the agency that they have failed to correct serious deficiencies and that their state and federal special education funding is in jeopardy. A date for the impending sanctions will be stated and an additional attempt to provide necessary technical assistance will be offered.

(b) if the prescribed remedial actions have not been completed (or significant negotiated progress is now shown) by the date specified above, the sanctions will be imposed until such time that satisfactory compliance has been achieved.

Following is the procedure by which an organization or individual may file a written signed complaint to the SEA. The complaint must include:

(a) a statement that the state or applicant under Part B has violated a requirement of a federal statute or regulations that apply to a program; and

(b) the facts on which the statement is based.

Interagency Agreement for Monitoring

INTERAGENCY AGREEMENT

AGREEMENT BETWEEN:

THE STATE OF MONTANA
DEPARTMENT OF INSTITUTIONS

and

THE OFFICE OF PUBLIC INSTRUCTION
DEPARTMENT OF SPECIAL SERVICES

DECEMBER 1981 - DECEMBER 1984

PURPOSE OF AGREEMENT

To clarify procedures between the Department of Institutions, State of Montana, and the Department of Special Services, Office of Public Instruction, regarding educational activities for handicapped individuals within Montana's state institutions operated by the Department of Institutions.

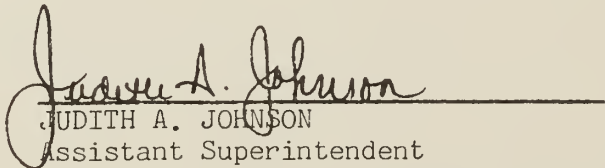
STATEMENT OF INTENT

It is the intent of the Department of Institutions and the Department of Special Services to annually conduct joint monitoring of the educational programs in the following state institutions serving handicapped children: Boulder River School and Hospital; Warm Springs State Hospital, Children's Unit; Eastmont Training Center; Pine Hills; Mountain View; and Swan River Youth Camp. Monitoring activities of the educational programs will follow guidelines set by P.L. 94-142, P.L. 93-112, Montana State Law and Administrative Rules for the Office of Public Instruction. It is the intent that the compliance of these documents will be met by each institution education program when applicable. Results of monitoring and compliance issues will be issued by the Department of Institutions with prescribed activities directed to the state institutions. Monitoring of corrective actions will be conducted by the Department of Institutions in cooperation with the Department of Special Services.

Agreed upon this date, December 2, 1981, and, unless amended, is in effect until January 1, 1984.



CARROLL SOUTH
Director
State of Montana
Department of Institutions



JUDITH A. JOHNSON
Assistant Superintendent
Office of Public Instruction
Department of Special Services

Attachments:

- P.L. 94-142
- P.L. 93-112 (Section 504)
- Title 53, Title 20, Montana Code Annotated
- Administrative Rules, Office of Public Instruction

Monitoring Forms



OFFICE OF PUBLIC INSTRUCTION

STATE CAPITOL
HELENA, MONTANA 59620
(406) 449-3095

Ed Argenbright
Superintendent

Dear

This letter confirms our arrangements to conduct a monitoring visit of the special education program within your district on (date). The monitoring team is scheduled to arrive at approximately (time).

A recommended itinerary is:

Orientation of team by the appropriate school administrator to include:

- general overview/description of special education activities with current data on enrollment
- summary of special education personnel
- Child Find programs
- out-of-district placements
- unique features of program to be observed by team
- private or state operated schools/programs within district

Team will then visit special education program to:

- observe facilities, equipment and materials
- review special education records concerning:
 - Referral
 - Permission for Evaluation
 - Child Study Team (CST)
 - Individualized Education Program (IEP)
 - Parental Permission for Placement
 - Access to Records
- interview special education personnel
- interview selected regular education personnel
- interview selected parents and students receiving special education
- interview school board member(s)

Parent and school board member(s) interviews can be conducted by telephone.

Exit briefing presented by monitoring team to personnel designated by school administrator to:

- discuss findings and recommendations

A written report will follow the monitoring visit.

If there are specific technical needs that can be addressed during our visit, please notify me so that appropriate preparations can be made. The team is looking forward to meeting with you and learning more about your special education program.

Sincerely,

Affirmative Action — EEO Employer

INITIAL ORIENTATION

1. General overview/description of special education activities:
2. Administrative structure regarding special education:
3. Participation in Cooperative:
4. Current enrollment data:
5. Summary of special education personnel:
6. Child find program:
7. Out-of-district placements:

8. Children being served from other districts:

9. Private schools within district:

10. Inservice training:

11. Specific needs or problems encountered by district:

12. Unique features of program:

13. Other:

EXIT BRIFFING

1. Introduction
 - a. Introduce team members
 - b. Purpose of visit
 - c. Activities of the team
 - d. Written report
2. Program Review
 - a. Special commendations
 - b. Major concerns
 - c. Programs
 - d. Support services
3. Compliance Review
 - a. Annual Program Plan
 - b. Right to Education
 - c. Full Educational Goal
 - d. Priorities
 - e. Child Identification
 - f. Procedural Safeguards
 - g. Least Restrictive Environment
 - h. Comprehensive System of Personnel Development
 - i. Participation of Private School Children
 - j. Placement in Private Schools
4. Records Review
 - a. General
 - b. Referral
 - c. Permission for Evaluation
 - d. Child Study Team (CST)
 - e. Individualized Educational Program (IEP)
 - f. Permission for Program Placement
 - g. Confidentiality of Records
5. Concluding Statement
6. Discussion

COMPLIANCE REVIEW

1. Annual Program Plan

- a. Authority: P.L. 94-142 §121a.180, 220-240
- b. Findings:

c. Corrective Actions:

d. Timeline:

2. Right to Education

- a. Authority: P.L. 94-142 §121a.121-122
MT L&R 1.0, 2.0, 5.1(1)
- b. Findings:

c. Corrective Actions:

d. Timeline:

3. Full Educational Goal

- a. Authority: P.L. 94-142 §121a.123-126
MT L&R 5.1(2)
- b. Findings:

c. Corrective Actions:

d. Timeline:

4. Priorities

- a. Authority: P.L. 94-142 §121a.127
- b. Findings:

(4. continued)

c. Corrective Actions:

d. Timeline:

5. Child Identification

a. Authority: P.L. 94-142 §121a.128, 220, 300 (comments)
P.L. 93-112 §504:84.32 and Appendix A, Subpart D, No. 2
MT L&R 1.3, 5.5

b. Findings:

c. Corrective Actions:

d. Timeline:

6. Procedural Safeguards

a. Authority: P.L. 94-142 §121a.131, 136, 500-504
MT L&R 11.1-.5, 12.1-.3

b. Findings:

(1) Prior Notice

(2) Written Parent Consent

(3) Due Process Hearings

(4) Surrogates

(5) Independent Evaluation

c. Corrective Actions:

d. Timeline:

7. Least Restrictive Environment

a. Authority: P.L. 94-142 §121a.132, 227, 305, 306, 361, 533, 550-556
MT L&R 2.0(1)(a), 7.1(1)

b. Findings:

(7. continued)

c. Corrective Actions:

d. Timeline:

8. Comprehensive System of Personnel Development

a. Authority: P.L. 94-142 §121a.139, 380-387

b. Findings:

c. Corrective Actions:

d. Timeline:

9. Participation of Private School Children

a. Authority: P.L. 94-142 §121a.140, 450-460
MT L&R 13.3(e), (f)

b. Findings:

c. Corrective Actions:

d. Timeline:

10. Placement in Private Schools

a. Authority: P.L. 94-142 §121a.140, 400-403

b. Findings:

c. Corrective Actions

d. Timeline:

RECORDS REVIEW

1. General

The findings and corrective actions address required components of the special education confidential records. The authorities cited are from the Special Education Reference Manual: Montana Laws and Rules (MT L&R) and from Public Law 94-142 (P.L. 94-142).

2. Referral

- a. Authority: MT L&R 10.2(2)
- b. Findings:

c. Corrective Actions:

d. Timeline:

3. Permission for Evaluation

- a. Authority: MT L&R 11.2
- b. Findings:

- (3. continued)
c. Corrective Actions:

d. Timeline:

4. Child Study Team (CST)

- a. Authority: MT L&R 13.1-.5, 13.14
b. Findings:

c. Corrective Actions:

d. Timeline:

5. Individualized Education Program (IEP)

- a. Authority: MT L&R 13.7-.10, 13.14
b. Findings:

c. Corrective Actions:

(5. continued)

d. Timeline:

6. Permission for Program Placement

a. Authority: MT L&R 11.3-.4

b. Findings:

c. Corrective Actions:

d. Timeline:

7. Confidentiality of Records

a. Authority: P.L. 94-142 §121a.560-573
MT L&R 14.1-.3

b. Findings:

c. Corrective Actions:

d. Timeline:

AIDE

1. Name _____
2. Position _____
3. What percent of your working time do you spend with or preparing for handicapped children? _____

4. What are your assigned duties?
5. Please comment on some programs, methods of instruction, materials or program outcomes in which you take particular pride.
6. Please comment on some of your concerns in regard to special education locally or at any level.

FACILITIES UTILIZATION

1. Are special education classrooms within the LEA comparable with regular classrooms? _____

Comment:

2. Are facilities where handicapped students are taught appropriately equipped or modified to meet their needs? (ramps, wide doorways, toilets, etc.) _____

Comment:

3. Where are facilities located?

- _____ a. in a building with regular students
- _____ b. located in a school building with only handicapped population
- _____ c. in a nonschool building

Comment:

4. Are the facilities

- _____ a. appropriately safety equipped?
- _____ b. equipped with push door latches?
- _____ c. equipped with hand rails?
- _____ d. equipped with ramps?
- _____ e. located on the ground floor?

Comment:

5. Is there sufficient room to meet the needs of

- _____ a. a media and materials center?
- _____ b. testing and evaluation situations?
- _____ c. planning meetings?
- _____ d. support services?

Comment:

6. Rental facilities

- _____ a. does the district rent facilities for special education?
- _____ b. if so, have the facilities passed appropriate inspections by public officials? (fire, health etc.)

Comment:

PARENT'S

1. Name: _____

2. Educational level of child's program:

- High School
- Junior High
- Elementary
- Preschool
- Other, please specify

3. What handicapping condition does your child have?

- Mental Retarded
- Learning Disabled
- Emotionally Disturbed
- Speech Impaired
- Other, please specify

In your own words please define this condition.

4. When was the initial referral of your child made?

- Following a screening of all students in a class
- After preschool screening
- Upon parental request
- Upon request of regular teacher
- Other, please specify

5. Were you informed of the reason for referral? If so, how?

- Yes
- No

6. Were you informed of your rights as parents? If so, how?

- Yes
- No

7. Did you sign the following?

- | | | |
|------------------------------|-----------------------------|----------------------------------|
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | |
| <input type="checkbox"/> | <input type="checkbox"/> | Permission for evaluation |
| <input type="checkbox"/> | <input type="checkbox"/> | Individualized Education Program |
| <input type="checkbox"/> | <input type="checkbox"/> | Permission for placement |

8. Were you asked to participate in the Child Study Team?

- Yes
- No

9. If you were asked for participation, how were you contacted?

10. Were provisions made for a mutually convenient time and place in regard to the meeting of the Child Study Team?

_____ Yes
_____ No

11. Did you participate on the Child Study Team?

_____ Yes
_____ No

12. Do you feel that your input was heard and utilized in the decisions regarding your child?

_____ Yes
_____ No

Comment:

13. Do you feel your participation on the Child Study Team was of value?

_____ Yes
_____ No

Comment:

14. If you did not agree with the decision of the Child Study Team were you informed of the hearing procedure?

_____ Yes
_____ No
_____ N/A

15. Approximately how long a period of time transpired between the date of the initial referral and the actual program placement?

_____ two weeks
_____ one month
_____ two months
_____ more than two months

16. Please list some aspects of the special education program in which your child has been involved, that have pleased you.

17. List some of your suggestions for an improvement of special education services at local, regional or state level.

Monitor _____

PRINCIPAL

Name: _____ School: _____

Explain reason for monitor.

1. Describe your role in the special education program.
2. Please describe the steps that are taken to place a child in special education starting with the referral process(diagram).

3. Does the student ever participate on the CST?

4. What would you do if you disagreed with the majority opinion?

_____ file minority report/dissenting opinion

_____ is not aware of opportunity to file a dissenting opinion

_____ never happens

5. What special education inservice training programs would you like to have in this school district?

_____ IEP

_____ handicapping conditions

_____ CST

_____ role of regular education teacher, administrator

_____ Rules and Regs

_____ other:

6. What program(s) in this school is doing an excellent job at meeting the specific needs of handicapped children?

7. Is there anything you would like to see changed in regard to special education in this school/district?

8. What can be done to improve special education services at the state level?

PSYCHOLOGIST

1. Name _____ Approval Status _____

2. Base Population _____

3. FTE in special education _____ %

4. How much of your working time do you spend on the following activities?

	_____ %	_____ ideal %
Testing	_____	_____
Child Study Team	_____	_____
Counseling Therapy	_____	_____
Screening	_____	_____
Administrative	_____	_____
In-service	_____	_____
Non-special education duties	_____	_____
Consultation (Parents and Teachers)	_____	_____

5. Evaluation

A. How are you informed of a needed evaluation?

B. What information are you given in terms of the scope of evaluation needed?

- _____ Referral Form
- _____ Interview with referring teacher
- _____ Record review
- _____ Other, please specify

C. How do you determine if nonbiased instruments are needed for a particular child? If you deem nonbiased instruments necessary which ones do you use?

D. Typically how long is it from the time you receive a referral until the evaluation is complete?

E. How long a waiting list for evaluations do you presently have? Is this typical? If not how so?

6. Child Study Team Process

- A. How do you view your role in the CST process?

- B. Do you have suggestions which would improve the process?

7. Definitions

- A. What criteria are used locally to determine "significant discrepancy" and "average to near average learning potential" in relation to certifying L.D. handicap?

- B. What criteria are used locally to determine if a child is emotionally disturbed?

- C. Please comment as to what alterations in the definitions for LD and ED would prove beneficial.

8. Placement

- A. Approximately how long a period of time transpired between the date of initial referral and the actual program placement?

School District _____ Monitor _____
 Education Placement (check)
 Student's Initials _____ Regular Classroom _____
 Speech (only) _____
 Resource Room _____
 Grade or Education Level _____ Self Contained _____
 Handicapping Condition: _____ Combination _____
 Other: _____

- | | | | | |
|----------|-----------|----------|------------|---|
| <u>Y</u> | <u>NC</u> | <u>N</u> | <u>N/A</u> | 1. REFERRAL: (Date _____) |
| ___ | ___ | ___ | ___ | a. Referral form on file |
| ___ | ___ | ___ | ___ | b. Signed by the referring person |
| ___ | ___ | ___ | ___ | c. Reasons cited for referral |
| ___ | ___ | ___ | ___ | 2. PERMISSION FOR EVALUATION: (Date _____) |
| ___ | ___ | ___ | ___ | a. Parents informed of the reason for referral |
| ___ | ___ | ___ | ___ | b. Surrogate parents appointed if necessary |
| ___ | ___ | ___ | ___ | c. Documentation that parents were informed of their rights |
| ___ | ___ | ___ | ___ | d. Signed parental permission for <u>evaluation</u> |
| ___ | ___ | ___ | ___ | e. Types of evaluation named |
| ___ | ___ | ___ | ___ | f. Description of types of evaluations |

___	___	___	___	3. CHILD STUDY TEAM (CST): (Date _____)							
___	___	___	___	a. Appropriate participants present							
	<u>LD</u>	<u>MR</u>	<u>SI</u>	<u>ED</u>	<u>HH</u>	<u>OHI</u>	<u>OI</u>	<u>MH</u>	<u>D</u>	<u>VI</u>	<u>DB</u>
Administrator or designee	M	M	M	M	M	M	M	M	M	M	M
Special education teacher	M	M		M	M	M	M	M	M	M	M
Regular class teacher	M	M		M	M	M	M	M	M	M	M
Psychologist	M	M		M				M			
Parent or documentation of opportunity to participate	M	M	M	M	M	M	M	M	M	M	M
Speech Hearing Clinician			M		M			M			M
Other:											

<u>Y</u>	<u>NC</u>	<u>N</u>	<u>N/A</u>	b. Participants signed the CST report							
___	___	___	___	c. Place for dissenting reports							
___	___	___	___	d. Results of the comprehensive evaluation							
	<u>LD</u>	<u>MR</u>	<u>SI</u>	<u>ED</u>	<u>HH</u>	<u>OHI</u>	<u>OI</u>	<u>MH</u>	<u>D</u>	<u>VI</u>	<u>DB</u>
Academic	M	M		M	M			M			
Social/emotional	M	M		M				M			
Class performance	M	M		M				M			
Observation	M										
Hearing screening	M	M		M	M			M			
Vision screening	M	M		M	M			M			
Speech			M					M			M
Medical diagnosis						M	M				
Ophtamogical report										M	M
Psychological report	M	M		M				M			

<u>Y</u>	<u>NC</u>	<u>N</u>	<u>N/A</u>	
				4. INDIVIDUALIZED EDUCATION PROGRAM (IEP): (Date _____)
				a. Appropriate personnel participated in the development of the IEP:
—	—	—	—	1. Administrator/designee
—	—	—	—	2. Special Education personnel providing service
—	—	—	—	3. Regular classroom personnel
—	—	—	—	4. Parent
				b. IEP contains the following:
—	—	—	—	1. Present level of education performance
—	—	—	—	2. Annual goals
—	—	—	—	3. Short term instructional objective
—	—	—	—	4. Educational services to be provided
—	—	—	—	5. Related services to be provided
—	—	—	—	6. Date for initiation and projected duration
—	—	—	—	7. Appropriate objective criteria for objective
—	—	—	—	8. Extent of participation in regular programs
—	—	—	—	9. Statement concerning physical education
—	—	—	—	10. For secondary students: statement regarding vocational education
				5. PERMISSION FOR PROGRAM PLACEMENT: (Date _____)
—	—	—	—	a. Placement based on recommendation of the CST
—	—	—	—	b. Placement within 30 days of CST meeting
—	—	—	—	c. Permission for change in placement signed by the parent
—	—	—	—	d. Annual review of the placement
—	—	—	—	e. Placement appears to be a least restrictive alternative
				6. CONFIDENTIALITY OF RECORDS
—	—	—	—	a. Name and position of person designated as responsible for maintaining records in confidential manner
—	—	—	—	b. Records maintained in secure storage
—	—	—	—	c. List of all persons who have access to records
—	—	—	—	d. Record of parties obtaining access to records
—	—	—	—	e. List of types and locations of information

Additional Comments:

Monitor _____

REGULAR TEACHER

Name: _____ School _____ Grade Level _____

- 1) If you think that a student in your class needs some special help, what do you do?
- 2) Who contacts the parent when a student is referred for an evaluation?
- 3) Have you been asked to assist in the student's evaluation?
- 4) What happens after a child is evaluated?
- 5) Have you ever participated on a Child Study Team?
- 5) Describe what happens at a Child Study Team meeting.
- 7) Do you feel like the Child Study Team meeting was valuable?
- 3) What would you do if you disagreed with the majority opinion?
 - _____ File minority/dissenting opinion report.
 - _____ Is not aware of the opportunity to file a dissenting opinion.
 - _____ Forget about it.
 - _____ Never happens.
- 9) Do you know what an Individual Educational Program (IEP) is?
-)) Have you ever been involved in writing and IEP? (If yes, describe process).
-) When a handicapped child is placed in your classroom, what information are you given about the student?
-) After the child is placed in your classroom, what type of support services are offered to you and the student?
-) What program(s) in the district do you think is doing an excellent job at meeting the specific needs of handicapped children?
-) What are some of your concern about state regulations, local programming etc. (also list possible solutions).

RESOURCE UTILIZATION

1. What resources are used by the LEA?

- Regional Services
- Mental Health
- Easter Seal
- School for the Deaf & Blind
- County Health Department
- Local Cooperative
- Social Rehabilitation Services
- Office of Public Instruction
- Center for Handicapped Children

2. How do you use these agencies? How often?

3. Under what conditions are local agencies involved in your Child Study Team?

- Routinely
- Upon parental request
- Upon local agency request
- Upon recommendation of CST leader
- Never
- Other--please specify

4. If you are not involved presently in a functioning cooperative, are you planning to become involved? If so, when?

Monitor _____

Special Education Teacher

Name: _____ School: _____

1. Type of Program: ___ RR Level: ___ Preschool Caseload: ___ Total

___ SC	___ Elementary	___ LD	___ VH
___ Comb.	___ Jr. High	___ MR	___ D
	___ Sr. High	___ ED	___ HH
	___ Comb.	___ SE	___ OI
		___ OHI	

(Check handicapping conditions served)

2. Training and experience:

3. Is your teaching facility and materials adequate to meet the needs of your students:

Facility: ___ yes
 ___ no

Materials: ___ yes
 ___ no

Comments:

4. Describe your schedule on a normal day:

Yes No

___ ___ Schedule flexible to needs of students
___ ___ Good communication and cooperation between regular education and special education
___ ___ Schedule allows a planning period during a day

Comments:

5. Describe the steps that are taken to place a child in special education, starting with the referral process (diagram).

6. What would you do if you disagreed with the majority opinion?

- file minority report/dissenting opinion
- is not aware of opportunity to file a dissenting opinion
- never happens

7. What inservice training needs do you have?

- | | |
|--|--|
| <input type="checkbox"/> IEP | <input type="checkbox"/> techniques for LD |
| <input type="checkbox"/> CST | <input type="checkbox"/> techniques for ED |
| <input type="checkbox"/> Rules and Regs. | <input type="checkbox"/> techniques for MR |

Other: _____

8. What individual records do you keep in your files?

- IEP CST Academic evaluations Psychological other

9. What program(s) in the district do you think is doing an excellent job at meeting the specific needs of handicapped children?

10. What are some of your concerns about state regulations, local, programming etc. (also list possible solutions).

Date _____

Monitor _____

SPEECH, LANGUAGE AND HEARING CLINICIANS

Name _____ District _____

School Assignments _____

1. Licensure Status: _____ Full
 _____ Probational: Name of Sponsor _____
 _____ Provisional: Name of Supervisor _____
 _____ Technician: Name of Supervisor _____

Hours of supervision per week _____

2. Total active caseload (weekly) _____ Total caseload receiving only speech,
 language and hearing services _____ Comment: _____

3. What kind of problems are you working with? (approximate case numbers)
 Fluency _____ Language: _____
 Articulation _____ receptive _____
 Voice _____ expressive _____
 Other _____

4. Are direct services provided to students who have not been identified as
 handicapped? Yes _____ No _____ Comments: _____

5. Are groups being used in therapy: Yes _____ No _____ Comments: _____

6. Do you have necessary room and materials for instruction? adequate _____
 minimal _____ not adequate _____

7. Do you have a waiting list for speech and hearing services? Yes _____ No _____
 Comments: _____

8. Please comment on your role in the CST/IEP procedure for students needing
only speech and hearing services _____

9. Please comment on your role in the CST/IEP procedure for students with combined
 special educational services. _____

10. What are your needs in terms of further training. (Please specify)
 _____ College graduate work _____ Professional meetings
 _____ College extension work _____ Other
 _____ In-service training _____ None

11. Approximately what percent of your time at school is/should be spent in the
 following:

Actual

Ideal

Direct services

Consultation with teachers, parents, CST/IEP meetings

evaluation, paper work

Comments: _____

12. Does each student have only one IEP. Yes ___ No ___ Comment: _____

13. Do you have any questions about either the state or federal regulations?
Yes ___ No ___ Comment: _____

14. Additional Comments: _____

STUDENT INTERVIEW

MONITOR _____

School District _____ Education Placement (check)

Student's Initials _____ Regular Classroom _____

DOB _____ Speech (only) _____

Grade or Education Level _____ Resource Room _____

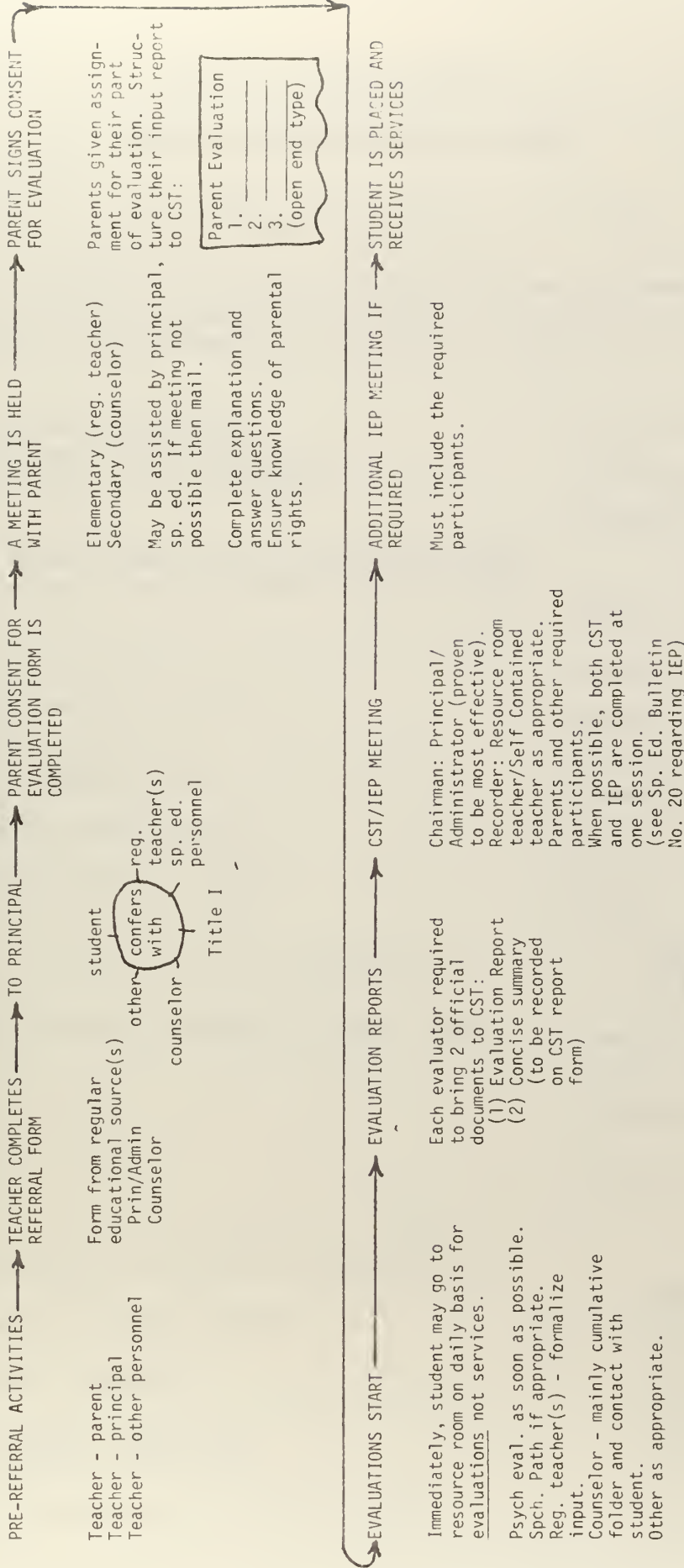
Handicapping Condition _____ Self-Contained _____

Separate School _____

1. Why do you come to Special Education classes? (Why do you need special help?)
2. How did you get in this class (referral process)?
3. Understanding of:
 - a. Child Study Team
 - (1) What is it?
 - (2) Have you ever been on a CST?
 - (3) Would you like to be on one?
 - b. IEP
 - (1) What is it?
 - (2) Have you seen yours?
4. Special services being received: _____
5. How many hours per day do you get special help?
6. Opinions regarding the value of special services:
 - a. Is special education helping you in areas that you need help?
 - b. What would you do or courses you would take to better prepare you for the future?
7. Relationship with other students:
 - a. What extra curricular activities do you participate in?
 - b. Are most of your friends in special education classes or regular classes?
8. What do you like most about this (special education) class?

9. Recommendations to improve your educational program?
- a. More academics (reading, math, spelling)
 - b. More Vocational education (job training)
 - c. More/less special education
 - d. More/less regular education

A MODEL - - REFERRAL TO PLACEMENT



SPECIFIC LEARNING DISABILITY
Evaluation Checklist Summary Sheet

STUDENT INFORMATION:

Initials: _____ Date of Birth: _____ Age: _____

The following areas of the above-named student have been assessed and considered by this multidisciplinary team and have formed the basis for the determination of the student's eligibility for services for the learning disabled.

I. Student's Ability Level is:
 (by estimated standard score,
 expected grade level achievement)

II. Student's Achievement Level in specified areas:
 (by estimated percentile, standard score, grade level)

	<u>%ile</u>	<u>Stan. Score</u>	<u>G.L.</u>
a. Oral Expression	_____	_____	_____
b. Listening Comprehension	_____	_____	_____
c. Written Expression	_____	_____	_____
d. Basic Reading Skills	_____	_____	_____
e. Reading Comprehension	_____	_____	_____
f. Mathematical Calculation	_____	_____	_____
g. Mathematical Reasoning	_____	_____	_____

III. Is there evidence of a severe discrepancy? Yes No

In which specific achievement areas? (list)

IV. Can this student be excluded from Special Education Services for the Learning Disabled due to:

(a) sensory or motor handicap	Yes <input type="checkbox"/>	No <input type="checkbox"/>
(b) mental retardation	<input type="checkbox"/>	<input type="checkbox"/>
(c) emotional disturbance	<input type="checkbox"/>	<input type="checkbox"/>
(d) environmental, cultural or economic	<input type="checkbox"/>	<input type="checkbox"/>

V. Psychological processing deficit(s) identified:

Yes

No

Specific deficit(s): (list)

VI. A classroom observation was completed and information was shared.

Yes

No

VII. Has the student been provided with appropriate educational alternatives?

Yes

No

Have such alternative approaches been documented and included in this report?

Are special education services now required for this student?

Comments:

VIII. Based on the above data, this student is:

determined as being learning disabled.

determined as being not learning disabled.

C. Policies and Procedures for Use of Part B Funds

1. Administrative Rules of Montana

10.16.2301. Federal Programs Generally

There are several federal programs which have a portion of the program charged to serve handicapped children. Specific regulations published by each program must be followed as well as the Administrative Rules of Montana. If the Administrative Rules of Montana are in conflict with the federal requirements, then the federal requirements supersede. The Office of Public Instruction staff assigned to the federal program, as well as the special education program staff, will work cooperatively to assist districts to design a program which optimizes resources for children and takes into account both federal and state program regulations. If the handicapped portion of the federal program is not to be funded federally on an ongoing basis and is eventually going to be assumed by the local district utilizing special education funding, particular attention should be made to following the Administrative Rules of Montana to assure smooth conversion from the federal program to the state program.

10.16.2303. Education of All Handicapped Children Act, Part B

(1) Education of All Handicapped Children Act, Part B monies are to be used for projects which will initiate, expand and improve special education and related services to handicapped children through local education agencies.

(2) It is the goal of the Superintendent of Public Instruction to ensure that all unserved (out of school) handicapped children age six or older, but not having yet reached his or her 19th birthday, will be guaranteed full education opportunities. Those EHA-B monies not utilized for unserved children in the above age categories will then be utilized to expand preschool programs for the children ages three through five. Children who are enrolled in private schools may participate in projects sponsored under this Act, but funds cannot be made available directly to such schools.

(3) All proposals submitted will be read and rated by a reading team using the following criteria:

(a) are the children that are identified for services in the proposal unserved and within the age range of six to 19;

(b) are the children that are identified for services in the proposal in school but not getting an appropriate education;

(c) is the proposal centered on children rather than personnel, materials and equipment;

(d) can the children identified as needing service in the proposal be served reasonably in an existing school program;

(e) are the services to be delivered in the least restrictive setting as possible;

(f) are the objectives for the program measurable;

(g) can the objectives be met through the activities that are proposed;

(h) is the proposed program evaluation adequate;

(i) are staff members who will provide the services for the children appropriately trained to deliver the services as outlined;

(j) is the proposed budget reasonable in terms of number of children to be served;

(k) is the proposed time line for providing services reasonable;

(l) does the proposal show evidence of long-range planning in meeting the state's full educational services goal for the handicapped by 1979; and

(m) how does the district/agency plan to finance the program in the future?

D. Direct Services by the SEA

The Montana Office of Public Instruction does not provide direct services to handicapped children.

E. Implementation Procedures - SEA

1. Policy and Procedures

Public agencies are informed of their responsibilities for implementing procedural safeguards for handicapped children through the following:

(a) Dissemination of the Montana Special Education Reference Manual which contains appropriate sections of School Laws of Montana and Administrative Rules of Montana.

(b) Periodic distribution of Special Education Bulletins which provide update information on federal and state special education topics. These include policy and procedure clarifications.

(c) Responding to telephone and written requests for information.

(d) On-site monitoring activities.

(e) Requested technical assistance provided by the Department of Special Services personnel or by contracted personnel.

(f) Regional and state meetings for special education personnel.

(g) Increasing utilization of state network of SpecialNet sites.

XVI. CONFIDENTIALITY

A. Policy and Procedures

1. Administrative Rules of Montana

10.16.1001. Special Education Requirements

School records and confidentiality of information must follow the same provisions established for regular education under the Family Educational and Privacy Rights Act and must follow the provision established for special education and the Education for All Handicapped Children Act.

10.16.1002. Storage of Pupil Records and Custody of Assessment Data

(1) The Superintendent of Public Instruction shall, through the five major newspapers in the state of Montana, advise the public of policies and procedures that have been established by the Superintendent's office to protect confidentiality of child identification data collected and maintained through the state's annual identification and location of handicapped children and youth.

Data items to be collected and maintained by the Superintendent of Public Instruction on an ongoing basis will be limited to the children's initials, birthdates, sex, school district and handicapping condition except for programs in state-operated schools under P.L. 89-313.

(2) Local school district shall provide public notices advising the public of procedures that have been established by the local school district board of trustees to protect confidentiality of the children's records.

(a) data items to be collected and maintained by local school districts will include, in addition to those required in Standards for Accreditation of Montana Schools, professional diagnostic information, services needed and provided and items related to cost accounting. If other personally identifiable information is to be collected in the future, the district shall advise parents;

(b) all data shall be used only for the purpose for which it is collected unless parental consent is obtained; and

(c) each participating school district and/or other participating agencies will be required to provide the Superintendent of Public Instruction with a written notice

which will assure that Superintendent that personally identifiable data collected by that agency will be maintained in a confidential manner. In addition to the requirements found in Standards for Accreditation of Montana Schools, this notice must include:

(i) the name and position of the persons assigned by the agency responsible for maintaining all personally identifiable student information in a confidential manner;

(ii) that all data forms are maintained in secure storage;

(iii) that the agency annually maintains a list of all persons who legitimately have access to those data; and

(iv) that the agency provides training for persons having access to these data. Such training shall relate to the confidentiality of the records, existing local, state and federal regulations relating to access and dissemination of records, rights of the child and parents to the confidential maintenance of records.

10.16.1003. Destruction of Data

(1) In accordance with local board of trustees' policies, each local education agency (LEA) must establish written procedures to ensure that parents, or the student after he or she reaches the age of 18, shall have the option to request destruction of their, or their child's, confidential records five years after termination of special education services after reviewing them. Otherwise, the LEA shall keep the records for five years beyond legal school age. Reasonable effort shall be taken by the agency maintaining personally identifiable data to provide parents with notification 60 days prior to its destruction, and the parents will be offered the opportunity to receive a copy of such records.

(2) The information to be destroyed shall not include those data routinely collected and maintained on all school children (e.g., student's name, address, phone number, his/her grades, attendance record, classes attended, grade level completed and year completed), but shall be data collected for identification, location, evaluation and related to special education services the child has received from the agency.

(3) Standards for Accreditation of Montana Schools shall also be followed by Montana schools.

2. Policy Statements

a. General

The specific requirements regarding confidentiality have been iterated to all LEAs and SOPs. Monitoring procedures (and forms) now include detailed coverage of: record of access, list of access, documentation of types

and locations of records, policies on the destruction of records and provisions for hearings to amend records. These issues are being addressed during the monitoring process and will continue to be addressed in all subsequent monitoring.

b. Specific Statements

(1) Each participating agency will permit parents to inspect and review the personally identifiable data collected and maintained relative to their children.

The agency is to comply with such a request as soon as possible or not longer than 45 days after receipt of the request. Compliance with a request to inspect or review records should occur before any meeting regarding an individualized education program or hearing related to the identification, evaluation or placement of a child.

(2) This right to inspect and review education records includes:

(a) The right to have records explained and interpreted

(b) The right to acquire copies of the aforementioned records

(c) The right to have a representative review and inspect the records

(d) The public agency may presume that the parent has the authority to inspect and review records relating to his/her child unless the agency has been advised that the parent does not have the authority under state law governing such matters as guardianship, separation or divorce.

(3) Record of Access. An access log must be maintained giving the date of access, name of party and the purpose for which the record was reviewed.

(4) Multiple Records. A parent has a right to review only their child's record.

(5) Lists of Types and Location of Information. The agency is to provide parents upon request a list of the types and locations of education records collected, maintained or used by the agency.

(6) Fees. An agency may charge a non-prohibitive fee to parents requesting copies of their child's records. The agency may not charge a fee to search for and retrieve information.

(7) Parental Request for Amendment of Records

(a) Parents may request that their child's record be amended if it is misleading or inaccurate.

(b) The agency may react positively or negatively. If the response is negative, they must notify the parent of the decision and simultaneously explain the parent's hearing rights.

(8) Hearing Rights

(a) Agency must provide an opportunity for hearing to challenge data and to determine accuracy.

(b) If as a result of the hearing the data is deemed inaccurate, etc., the agency shall amend data and so inform parents.

(c) If hearing decides data is not inaccurate, etc., agency shall inform the parent of the right to place in the records a statement on the data stating the reasons for disagreeing with the agency.

(i) Any such statement must be maintained by the agency as a part of the records as long as the contested portion remains in the records.

(ii) Disclosure by the agency of the child's record must include the statement.

(9) Consent

(a) Parental consent is necessary before data is:

(i) Disclosed to anyone other than officials of participating agencies collecting or using data.

(ii) Used for purpose other than those specified.

(b) State shall describe policy procedures used when parent refuses to consent.

(10) Safeguards

(a) Each participating agency shall protect data during collection, storage, disclosure and destruction stages.

(b) One official at each participating agency shall assume responsibility for assuring confidentiality.

(c) Persons collecting or using identifiable data shall receive training or instruction in the state policies and procedures.

(d) Each participating agency shall maintain, for public inspection, a current list of the names of those employees having access to personally identifiable data.

(11) Destruction of Data

(a) The agency shall inform the parents when personally identifiable information collected and maintained or used is no longer utilized to provide educational services to their child.

(b) The data that is no longer deemed useful must be destroyed at the request of the parent. This right transfers to the student when he/she has reached the age of legal majority ruled contrary by the courts. However, vital information can be maintained without time limitation.

(c) General cautions.

(d) Five years after the termination of special services, the local agency may encourage parents to request destruction of identifiable information. This request may also be made by the student who is beyond legal school age (currently 19). If this request is not made, the agency can destroy the documents if:

(i) The student is five years beyond legal school age, and

(ii) reasonable effort has been taken to provide the student with both notification 60 days prior to its destruction and an offer to receive a copy of the information.

B. REPORT OF HOW PART B FUNDS WILL BE USED

I. STATE ALLOCATION

A. State Education Agency Administration (Fiscal Year 1984)

In Fiscal Year 1984, 7.8 FTE in the special education section of the Department of Special Services will be supported with Part B administration monies. The total FTE in the department will be 9.5. Following is a description of each of these positions and the funding source:

Assistant Superintendent, Department of Special Services - Oversees and directs all aspects of Special Services including special education programs in the state of Montana.

<u>State</u>	<u>Federal</u>
.7 FTE	.3 FTE
70%	30%

Executive Assistant for Special Services - Assists the Assistant Superintendent, Department of Special Services, in carrying out his/her responsibilities.

<u>State</u>	<u>Federal</u>
	.5 FTE
	50%

Manager of Special Education - Supervises and directs all areas of special education finance including state and federal resources.

<u>State</u>	<u>Federal</u>
1.0 FTE	.0 FTE
100%	0%

Compliance Specialist - Supervises and directs the complaint procedures and coordinates litigation issues with the staff attorney.

<u>State</u>	<u>Federal</u>
.0 FTE	1.0 FTE
0%	100%

Program Development and Evaluation Specialists - Serve in an administrative, consultative and technical assistance role to local district, state-operated programs and special education cooperatives and assist in the monitoring of said programs.

<u>State</u>	<u>Federal</u>
.0 FTE	2.0 FTE
0%	100%

Staff Development Specialist - Supervises and directs all aspects of the comprehensive system of personnel development.

<u>State</u>	<u>Federal</u>
.0 FTE	1.0 FTE
0%	100%

Accountant - Responsible for recording and reporting all financial, administrative and program records for operation of special education section of the Department of Special Services.

<u>State</u>	<u>Federal</u>
.0 FTE	1.0 FTE
0%	100%

Program Secretaries - Responsible for all typing, etc., required by members of the special education section of the Department of Special Services.

<u>State</u>	<u>Federal</u>
.0 FTE	2.0 FTE
0%	100%

Fiscal Year 1985 and Fiscal Year 1986

Unless otherwise stipulated by the legislature, the above breakout of position descriptions and funding sources shall remain the same for the three-year grant period. In the event that changes occur, BEH shall be notified by the state education agency.

B. Description of Use of Part B Funds - State Initiated Projects

Of Montana's total EHA-B allocation for Fiscal Year 1984, 78 percent will flow-through to local education agencies to supplement state and local contributions to serve handicapped children in the 1984-85 school year.

Of the state's portion (22 percent), \$300,000.00 will be used for state education agency administration costs and the remaining set-aside dollars shall be used as follows:

1. SEA Child Find Campaign
These funds shall be used to provide the continuation of the ongoing statewide child find system.
2. Technical Assistance and Inservice Training
These funds will provide for technical assistance to LEAs and SOPs for policy development, implementation and compliance/complaint investigation and inservice training.
3. Transportation
These monies are set aside to assist LEAs and SOPs in transporting handicapped students. These funds supplement district and county transportation.
4. Parents' Inservice
Attendance at statewide inservice training and development of local training will be funded by this component.
5. Management Information System
These funds will provide for the purchase of appropriate computer software and maintenance of existing software as well as further development of the existing data management system.
6. Professional Group Support
Assistance in training for professional groups within the state of Montana will be funded by this component.
7. Advisory Panel
These funds will be used for the operation of, and special projects developed by, the Montana Special Education Advisory Panel.
8. Requests for Proposals for Special Projects for Handicapped Students
These funds will be used to allocate funds for special projects deemed appropriate by the SEA after review of LEA and SOP proposals for funding. These special areas would include, but not be limited to, summer programs, research, technological areas and vocational and career education for handicapped students.

At this time, the Montana SEA anticipates the same funding components for Fiscal Year 1985 and 1986. In the event that changes appear appropriate, Special Education Programs would, of course, be consulted.

C. Montana Special Education Advisory Panel

The Montana Special Education Advisory Panel members represent a broad cross section of special education interest groups including parents, teachers, administrators and handicapped persons. This panel of fifteen people meets quarterly, or as needed, advising the state office in the following areas:

1. State rules, regulations and policies
2. Comprehensive system of personnel development
3. Use of federal funds
4. Proposed federal regulation changes
5. Program monitoring and compliance issues
6. Statewide system of services to handicapped children
7. Proposed and existing legislation affecting special education

Expenses associated with Advisory Panel meetings, i.e., travel, advertisements, per diem, will be paid in full by EHA-B funds for the three fiscal years covered by this plan.

D. Estimated Expenditures for Personnel Development Activities Supported by Part B Monies Fiscal Year 1984-86

Based upon past uses of Part B monies and contingent upon appropriations by Congress in 1980, the following percentage estimates have been developed for personnel development in Fiscal Year 1984-86:

1. Approximately five percent of the state set-aside monies under Part B shall be used to provide assistance (consultation) and inservice training to SEA staff and/or State Advisory Panel members.
2. Approximately eight percent of the state set-aside monies under Part B shall be used to provide training to parent and professional groups as well as school personnel.
3. A portion of LEA flow-through dollars under Part B shall be used for staff development based on the priorities outlined in Montana's December 1982 Needs Assessment Survey. For the specific areas of training in this regard, please refer to the section on CSPD in this plan. The priorities for use by LEAs and the SEA for Fiscal Year 1985 and 1986 shall be developed based upon the needs surveys conducted in 1985 and 1986.

II. LOCAL EDUCATION AGENCY ALLOCATIONS FISCAL YEAR 1984-1986

Of the 556 public school districts in Montana, an estimated 392, or 70.5 percent, are expected to be eligible to receive monies under Part B for Fiscal Year 1984-86. Approximately 340 school districts of the 392 eligible for Part B monies are expected to receive allocations under consolidated applications (86.7 percent of eligible districts). An estimated average of ten school districts per consolidated application is expected for Fiscal Year 1984-86.

Since the Office of Public Instruction provides no direct services to handicapped children, a description of those services is unnecessary.

Estimated expenditures under Part B for personnel development activities by local school districts for Fiscal Year 1984-86 range from 15 percent to 30 percent for the three-year period.

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